



# CHASM BETWEEN WORDS AND DEEDS X

How Ongoing Mortgage Servicing Problems Hurt  
California Homeowners and Hardest-Hit Communities



CALIFORNIA  
REINVESTMENT  
COALITION

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## EXECUTIVE SUMMARY

California families and neighborhoods have been suffering greatly under the weight of the foreclosure crisis for years. Despite various programs, policies and settlement agreements that were intended to prevent unnecessary foreclosures, too many families have lost their homes or are at risk of doing so. And the foreclosure crisis, with its devastating impact on low-income neighborhoods and communities of color, is far from over.<sup>1</sup>

For the last few years, the California Reinvestment Coalition (CRC) has been surveying the nonprofit housing counselors and legal service lawyers who advocate to prevent unneeded foreclosures and who are on the front lines of the crisis, in order to document the efficacy of foreclosure prevention efforts. The findings of these surveys have shown that banks and loan servicers have done a poor job in following the rules and in preserving homeownership and stabilizing neighborhoods. Last year's survey looked at key provisions of the National Mortgage Settlement (NMS) and California's landmark Homeowner Bill of Rights (HBOR) and found evidence of widespread noncompliance.

More recently, enforcement actions by the Department of Justice (DOJ) and the Consumer Financial Protection Bureau (CFPB) have resulted in settlement agreements with servicers that call for billions of dollars of relief to be provided to struggling homeowners. And, importantly, the CFPB's new mortgage servicing rules, which clarify and strengthen the protections that are due homeowners in danger of foreclosure, went into effect on January 10, 2014.

**COUNSELORS RESPOND:** "AT LEAST WE CAN POINT TO THE GSE GUIDANCE AS A STARTING PLACE, AND NOW THE CFPB RULE TO HELP GIVE US A LEG UP [ON WIDOWS AND ORPHANS PROBLEMS]. BUT WHAT'S HAPPENING TO ALL OF THE WIDOWS AND ORPHANS WITHOUT REPRESENTATION? SERVICERS HAVE NOT CHANGED THEIR PRACTICES AND WILL NOT UNLESS THERE IS AUDITING AND ENFORCEMENT."

**But have banks and servicers changed their practices so that homeowners struggling to avoid foreclosure, especially in the hardest hit communities, have a fighting chance to do so?**

In light of the new CFPB rules, CRC conducted this tenth survey of housing counselors in order to discern whether conditions have improved for homeowners and their communities.

Sixty-six (66) counselors and legal service advocates responded to this survey, which was distributed in February, March and April of 2014 and asked about advocate and homeowner experiences after the CFPB servicing rules went into effect. In addition, attorneys from Housing and Economic Rights Advocates

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<sup>1</sup> See Peter Dreier, Saqib Bhatti, Rob Call, Alex Schwartz and Gregory Squires, *Underwater America: How the So-Called Housing "Recovery" is Bypassing Many American Communities*, University of California at Berkeley Institute for Equity, Inclusion and Diversity. The report notes that 1 in 5 mortgages in the U.S. are underwater; that 18 of the top 100 cities with the highest incidence of negative equity are in California; and that in almost two-thirds of the hardest-hit ZIP codes, African-Americans and Latinos account for at least half of the residents. Available at: <http://diversity.berkeley.edu/underwater-america-report>

(HERA) collected homeowner declarations in order to tell the story of homeowner challenges and frustrations.

Though counselors report moderate improvement in servicer practices from prior years, they continue to report frustration with poor servicer responsiveness, and violations of existing standards mandated by the National Mortgage Settlement, California Homeowner Bill of Rights, and new CFPB servicing rules.

Key findings include:

1. **Problems and Violations Persist** – Counselors most frequently cited failures with Single Points of Contact (SPOCs), but also noted problems with lost documents, the lack of servicer accountability for following the rules, borrowers falling through the cracks during loan servicing transfers, failure to follow prescribed timelines for responding to borrowers, added barriers facing widows and orphans and other successors in interest, and inadequate access for Limited English Proficient borrowers.
2. **Complaints against the largest banks continue, but, increasingly, non-bank servicers are listed among “the worst.”** For the second straight year, Wells Fargo was cited most often as the worst servicer, with Bank of America coming in second. But Nationstar and Ocwen also were noted to be problematic. In recent years, billions of dollars in mortgage servicing rights have been transferred by banks to non-bank servicers. Nationstar and Ocwen now have 17% of the servicing market, up from 3% in 2010. Regulators are starting to review the sale of servicing rights,<sup>2</sup> but more scrutiny of mortgage servicing transfers is needed.
3. **Too soon to tell if CFPB Servicing Rules are making a difference.** Most counselors felt it was too early to determine if the rules are working, while a quarter of respondents felt the rules were not effective, and 13% said the rules are working.
4. **Many issues are not sufficiently addressed by the new servicing rules.** Counselors identified a large number of areas where they wish stronger rules existed, including: accountability for wrongdoing, Single Point of Contact, “widows and orphans,” and mortgage servicing transfers.
5. **Borrowers and neighborhoods of color and Limited English Proficient borrowers fare worse.** Over half of respondents felt that such borrowers and communities were still receiving worse outcomes when trying to save their homes.
6. **The widows and orphans issue is not yet solved.** Many widows, orphans, and others who inherit or have an ownership interest in property have faced foreclosure upon the death of a loved one because they were not listed on the loan, and the servicer would not work with them so that they could keep the family home. Despite new federal rules and guidelines designed to help, forty out of forty-six respondents felt that widows, orphans, and similar homeowners still face greater obstacles in trying to secure a loan modification.

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<sup>2</sup> Jessica Silver-Greenberg, *Lawmaker Urges U.S. Regulators to Scrutinize Mortgage Servicers*. NEW YORK TIMES, February 19, 2014, available at: <http://dealbook.nytimes.com/2014/02/19/lawmaker-urges-u-s-regulators-to-scrutinize-mortgage-servicers/>

In order to prevent unnecessary foreclosures, stabilize California communities, and ensure that no communities or groups of homeowners are discriminated against in the implementation of servicing reforms and the distribution of relief, we need:

- **Enforcement of the rules by federal and state regulators, to the full extent possible.**
- **Enforcement of existing rules regarding widows and orphans, and new federal and state rules to increase protections.**
- **Increased funding of counselors and legal service lawyers.**
- **Fair lending transparency so the public can know if rules and relief are being applied fairly.**
- **Independent fair lending audits at servicer shops.**

#### **Homeowner Documents Still Getting Lost**

Gemma and Cornelio Jaochico fell behind on their mortgage at the end of November 2010 when Gemma lost her job. They applied for a mortgage modification from Wells Fargo in early July. They received two letters, both dated July 8, 2013, each indicating a different SPOC. They contacted their SPOC, but that person was later reassigned. Mr. and Mrs. Jaochico received a letter asking for more documents, which they faxed in. Wells Fargo said that this was enough to postpone the sale of their Castro Valley home. However, this was not true—after playing phone tag with Wells Fargo, they discovered in late November 2013 that Wells Fargo had sold their house in foreclosure on October 30, 2013. The Jaochicos only learned of the sale of their home after being informed by a real estate agent. They also found out that Wells Fargo had filed an eviction against them.

Wells Fargo told HERA attorneys that Wells Fargo had sent communications that Mr. and Mrs. Jaochico had not in fact received. Wells also said that they could not undo the foreclosure because Wells Fargo was not at fault. The Jaochicos and HERA asked Wells Fargo to actually review the Jaochicos for a loan modification and cancel the foreclosure if the Jaochicos qualified, and this would be in the best interest of the investor as well.

Wells Fargo then indicated that the investor on the loan would not allow a modification, and that modification was therefore not an option. The Joachicos then, with help from their family, offered to pay the full amount they were behind on the loan. Wells Fargo refused to accept this payment and refused to delay the eviction. Feeling they had no alternative, Mr. and Mrs. Jaochico moved out of their house on February 28, 2014. *[Summary of declaration of Gemma and Cornelio Jaochico, full declaration can be found in the Appendix]*

## INTRODUCTION

California borrowers and neighborhoods have been suffering greatly under the weight of the foreclosure crisis. Too many families continue to be at risk of unnecessarily losing their sole wealth building asset; risk having to uproot their children from their schools; risk losing the home where they have been dutifully paying rent because their former landlord lost the house to foreclosure and the new landlord wants higher rents and more affluent tenants; and risk leaving their communities with a blighted, vacant property that brings down neighborhood property values and reduces the local tax base.

Foreclosures have plagued the state and will continue to do so, despite servicer promises to help, settlement agreements and laws requiring them to help, and programs like the Home Affordable Modification Program (HAMP) and Keep Your Home California (KYHC), which essentially pay the servicers to provide foreclosure assistance to struggling borrowers.<sup>3</sup>

For years, the California Reinvestment Coalition (CRC) has been surveying the nonprofit housing counselors and legal service lawyers who advocate to prevent unneeded foreclosures and who are on the front lines of the crisis, in order to document the efficacy of foreclosure prevention efforts. The findings of these surveys have shown that banks and loan servicers have failed to follow federal and state laws and regulations which are meant to protect homeowners and encourage loan modifications where that makes sense for homeowners and the owners of the loans.

Last year's survey looked at key provisions of the National Mortgage Settlement (NMS) and California's landmark Homeowner Bill of Rights (HBOR) and found widespread noncompliance.

More recently, enforcement actions by the Department of Justice (DOJ) and the Consumer Financial Protection Bureau (CFPB) have resulted in settlements calling for billions of dollars of consumer relief to be provided to struggling homeowners. And importantly, the CFPB's new mortgage servicing rules, which clarify and strengthen the protections that are due homeowners, went into effect on January 10, 2014.

**But have servicers changed practices so that homeowners struggling to avoid foreclosure, especially in the hardest hit communities, have a fighting chance to do so?**

In light of the new CFPB rules, CRC conducted this tenth survey to discern whether conditions have improved for homeowners and their communities.

### COUNSELORS RESPOND

"TRANSFER OF SERVICER TOO OFTEN CAUS[ES] DISRUPTION IN THE FLOW OF PROCESSING PAPERS. NEW SERVICER [CLAIM] THEY DON'T HAVE DOC[UMENT]S [AND] LOAN MODIFICATION TRIAL PAYMENTS [GET] MESSED UP. THEREFORE, NO PERMANENT LOAN MODIFICATION IS GIVEN."

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<sup>3</sup> The Keep Your Home California program, a program of the Hardest Hit Fund, is particularly disappointing in that through 2013, of nearly \$2 billion in foreclosure assistance available since late 2010, only \$543 million in relief had been made available to California households facing foreclosure. Information available at: <http://keepyourhomecalifornia.org/quarterly-reports/>

## METHODOLOGY

CRC distributed this survey to housing counselors in February, March and April of 2014. The survey asked about counselor experiences in 2014, after the CFPB servicing rules went into effect. Sixty-six (66) counselors and legal service advocates responded to the survey. Though counselors report moderate improvement from prior years, the results were still disheartening. The survey represents the first comprehensive attempt to assess changes to servicing practices since CFPB servicing rules went into effect on January 10, 2014.

Survey questions asked counselors: what were the biggest problems they were seeing with loan servicers; who were the worst loan servicers; whether they felt the new servicing rules were having any effect; the top issues not fully addressed by the rules; whether Limited English Proficient borrowers, or borrowers and neighborhoods of color were receiving worse loan modification outcomes; and whether new federal rules protecting “widows and orphans” and other successors in interest were being followed.

**COUNSELORS RESPOND:** “STILL NOT HAVING ASSISTANCE AVAILABLE TO LIMITED ENGLISH PROFICIENT BORROWERS FOR THEIR NATIVE LANGUAGE, ESPECIALLY ASIAN LANGUAGES.”

This year’s survey also includes the experiences of homeowners in trying to avoid foreclosure. Borrower declarations were prepared by attorneys at Housing and Economic Rights Advocates (HERA). A few of the selected stories and declarations are included within this report, and additional stories and declarations will be shared with regulators.

### **Incorrect HAMP Denials and Wrong Investor**

Enrique Hurtado fell behind on his mortgage payments on his American Canyon home in January of 2013, due to financial hardship. In March 2013, he applied to Bank of America, for a HAMP modification. Bank of America denied his application, with only the vague explanation of why. With HERA’s help, Mr. Hurtado appealed his denial to Bank of America and requested further explanation of the reason for his denial. Bank of America denied this appeal and refused to provide further information to Mr. Hurtado, so HERA submitted a complaint to the HAMP Solutions Center. On June 7, Bank of America again denied Mr. Hurtado’s modification request, this time offering a new reason, namely investor restrictions by Goldman Sachs. In August 2013, HERA discovered that the investor was not Goldman Sachs, but Bank of New York. HERA proceeded to file several complaints and appeals with various agencies, including the Consumer Financial Protection Bureau. Finally, in September 2013, Bank of America offered Mr. Hurtado a non-HAMP modification on terms which they previously said they could not offer. *[Summary of declaration of Enrique Hurtado, full declaration dated Feb 2, 2014 can be found in the appendix]*

# KEY FINDINGS

## **1. Servicing abuses persist**

The National Mortgage Settlement, the California Homeowner Bill of Rights, and the new CFPB servicing rules set clear standards for banks and loan servicers to follow regarding how they interact with homeowners and process their requests for assistance. One key obligation is the duty to provide homeowners a Single Point of Contact (SPOC) to help them navigate the complicated loan modification process, to have someone they can reach with questions, and to provide them with consistent and timely information. Other measures are meant to ensure all borrowers are treated fairly and have a meaningful opportunity to seek and secure any assistance for which they qualify. Counselors were invited to report the biggest problems they were seeing.

Their responses confirm data and trends from across the U.S. that servicers continue to fail to meet basic standards:

- **Biggest complaint: Unavailable SPOCS**

By far, the largest complaint of housing counselors is the failure of loan servicers to provide SPOCs that are accessible and knowledgeable. *Nearly every single respondent* cited poor SPOCs as one of the three biggest problems they see in loan servicing. This is consistent with national complaint data compiled as part of the National Mortgage Settlement.<sup>4</sup> A recent report by Fannie Mae underscores the importance of effective SPOCs, finding that homeowners who remembered being assigned a SPOC were twice as likely to receive and accept a mortgage modification and half as likely to be denied a modification.<sup>5</sup>

- **Next most frequent complaints: Lost documents and lack of accountability**

*Approximately one-third of respondents* reported that servicers losing documents or asking for the same documents over and over again continues to be a major problem. A similar number of counselors highlighted their frustration that there was often nothing to be done when servicers were ignorant of, or blatantly failed to follow, the rules.

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<sup>4</sup> Of the 55,081 servicing complaints received by the National Mortgage Settlement Monitor between July 2013 and December 2013, SPOCs were the most complained about issue, available at <https://www.mortgageoversight.com/wp-content/uploads/2014/05/Executive-Office-Complaints.pdf>

<sup>5</sup> Brena Swanson, *Fannie Mae: Single point of contact benefits mortgage servicing*, HOUSINGWIRE, May 6, 2014, available at: <http://www.housingwire.com/articles/29917-fannie-mae-single-point-of-contact-benefits-mortgage-servicing>.

### Multiple Requests for the Same Documents

In March 2013, Josefina Duenas fell behind on her mortgage payments on her Oakland home when her spouse lost his job. She applied for a HAMP modification with HERA's help, but her lender, US Bank was slow to respond. They frequently requested additional documents before they could complete the modification review, and eventually closed her application while wrongly claiming she failed to return documents she had submitted several times. Even after HERA submitted two complaints to the HAMP Solutions Center for wrongful denial and losing documents and failure to provide an update on the modification review, and after Ms. Duenas reapplied for a HAMP modification, US Bank still was slow to respond and made several additional requests for documents. Finally, in December of 2013, US Bank offered Ms. Duenas a modification. Without HERA's assistance, the Duenas believe they would have lost their home. *[Summary of declaration of Josefina Duenas, full declaration dated February 4, 2014 can be found in the Appendix]*

- **Also frequently cited: Mortgage Servicing Transfers, failure to follow timelines, and improper loan mod denials**

*Approximately a quarter* of respondents noted the growing and serious problem of homeowners falling through the cracks when loan servicing is transferred from one company to another, the failure of servicers to respond in a timely fashion to document submissions, and the belief that servicers make incorrect decisions as to whether a borrower is entitled to loan modification relief. The recently released report on the flawed Independent Foreclosure Review (IFR) process suggests that banks erred on an unacceptably high percentage of cases (PNC: 26%; Wells Fargo: 19%; Bank of America: 10%) with over 9% of all financial harm inducing errors constituting 'modification denials in error' confirming that large numbers of homeowners have likely been improperly pushed to foreclosure due to servicer error.<sup>6</sup>

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<sup>6</sup> Office of the Comptroller of the Currency, *Foreclosure-Related Consent Orders Status Report: Observations, Payments, and Foreclosure Prevention Assistance* (April 2014), available at: <http://www.occ.gov/news-issuances/news-releases/2014/nr-occ-2014-65a.pdf>



### **Incorrect Denials of Modifications, Delays, and Inaccurate Information Given to Homeowners**

Arminda Garcia fell behind on her mortgage payments to Bank of America due to financial hardship caused by health problems and her husband losing his job. In February 2012, Ms. Garcia paid an attorney to help her apply for a mortgage modification, and in July she received two Bank of America denial letters, each stating a different reason for denial. Ms. Garcia didn't understand either letter, and both turned out to be inaccurate. In September 2012, Ms. Garcia began working with HERA to reapply for modification.

In October 2012, Ms. Garcia resubmitted her HAMP application to Bank of America with HERA's help. After taking more than three months to re-review Ms. Garcia's application, Bank of America again erroneously denied her in February 2013. After acknowledging its error, Bank of America asked Ms. Garcia to resubmit her application yet again.

Several months later, in June and July 2013, when HERA contacted Bank of America to find out why the review was taking so long, Bank of America told HERA that it was waiting for approval from Wells Fargo, the investor on Ms. Garcia's loan. However, when HERA contacted Wells Fargo, Wells Fargo said that Bank of America hadn't submitted any request for approval.

In October 2013, more than a year and a half after she first applied and after multiple incorrect denials, Bank of America finally offered Ms. Garcia a HAMP modification trial plan. Ms. Garcia believes that Bank of America would have foreclosed on her without HERA's assistance. *[Summary of declaration of Arminda Garcia, full declaration dated Dec 2, 2013 can be found in the appendix]*

- **Dishonorable mentions: Dual track and failure to serve widows and orphans and Limited English Proficient borrowers.**

Counselors also noted continuing problems with dual track violations, where servicers illegally process foreclosures while homeowners are seeking loan modification review. In addition, counselors report that servicers still place additional barriers in the path of widows, orphans and other successors in interest, making it harder for them to stay in their homes. And servicers continue to poorly serve homeowners who speak non-English languages, not accepting documentation in languages other than English, not making SPOCs available who speak the preferred language of the borrowers, and not conducting outreach in the languages spoken by their customers.

### **How Bank Dysfunction Pushes Homeowners towards Foreclosure**

In 2010, small business owners Nick and Kimberly Cavanaugh fell behind on expenses as their business suffered due to the downturn in the economy. They applied for a HAMP loan modification for their Napa home, but were denied. After this denial, Mr. and Mrs. Cavanaugh were unable to make payments from June-September 2011. During this time, they submitted another application and, this time, Bank of America verbally approved them for a loan modification. However, Bank of America never sent them the modification paperwork.

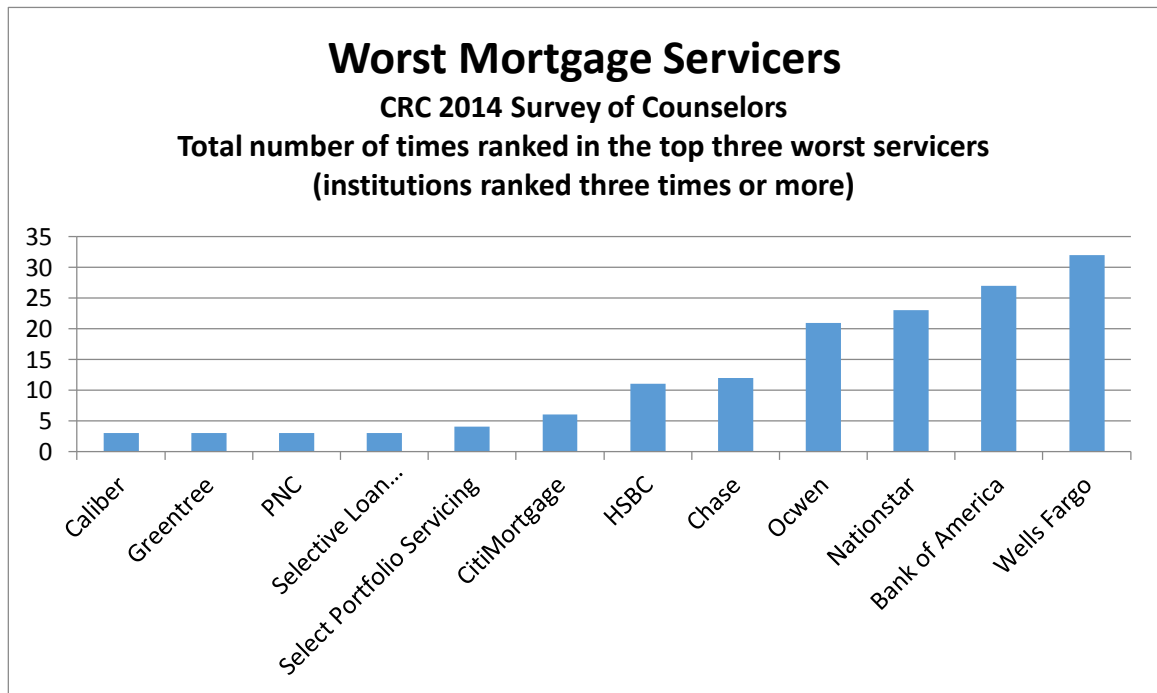
When pressed on its failure to send a written modification offer, Bank of America then claimed the investor did not permit any type of modification and that it was now denying the Cavanaugh's application. However, when HERA contacted the Master Servicer for the investor, Wells Fargo, Wells Fargo confirmed that Bank of America could in fact approve the loan modification. After HERA confronted Bank of America with this information, Bank of America offered the Cavanaughs a permanent loan modification, which they signed and returned in January 2012. However, Bank of America did not honor this loan modification because, as it later stated, it had made an error in drafting it. Instead, more than six months later, Bank of America sent the Cavanaughs a new modification agreement with a higher loan balance and higher monthly payments. The Cavanaughs signed and returned this agreement as well. Incredibly, Bank of America failed to honor this second written loan modification agreement as well.

In April 2013, Bank of America sent the Cavanaughs yet another corrected loan modification agreement. However, even then Bank of America continued to make errors on their account. Even though the Cavanaughs had made every payment on the modification since the first agreement in January 2012, Bank of America incorrectly entered the final modification into its accounting system, and so now told them that they were four months behind on the payments. Bank of America did not manage to correct its errors on the Cavanaughs' account until more than two years after their initial application. *[Summary of declaration of Nick and Kimberly Cavanaugh, full declaration dated December 12, 2013 can be found in the Appendix]*

## 2. Old fixtures and new upstarts among those voted worst servicer

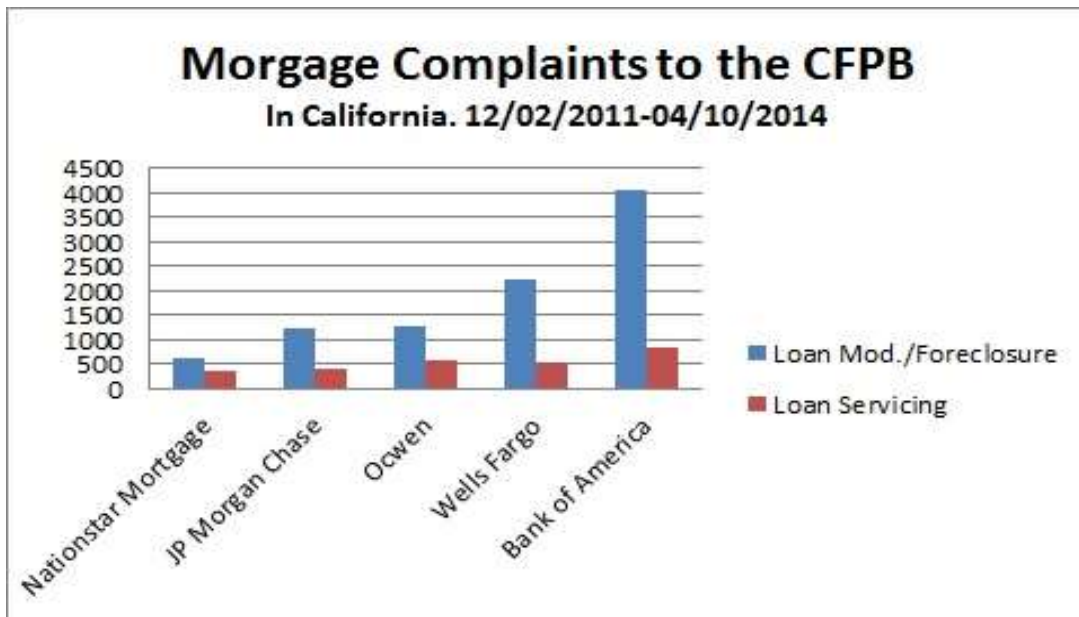
Counselors were asked to identify the worst servicers in their experience. Over twenty servicers were so identified. But only four servicers were named by twenty or more housing counselors.

- For the second year in a row, **Wells Fargo was named the worst servicer**. It received the most votes as #1 worst servicer, as well as the most votes overall (32).
- **Bank of America came in second again**, with 27 of 66 respondents citing it as among the three worst servicers.
- Close behind were **Nationstar and Ocwen**, two large non-bank servicers who have greatly expanded the volume of loans they service in California and elsewhere. Nationstar was named as among the worst servicers by 23 counselors, and Ocwen was named as among the worst servicers by 21 counselors. Ocwen recently entered into a settlement agreement with the CFPB<sup>7</sup>, and has had its deal to purchase \$2.7 billion in servicing rights from Wells Fargo put on hold amidst questions about conflicts of interest put forth by the New York Department of Financial Services.<sup>8</sup>



<sup>7</sup> Consumer Financial Protection Bureau, CFPB, *State Authorities Order Ocwen to Provide \$2 Billion in Relief to Homeowners for Servicing Wrongs*, Dec. 19, 2013, available at: <http://www.consumerfinance.gov/newsroom/cfpb-state-authorities-order-ocwen-to-provide-2-billion-in-relief-to-homeowners-for-servicing-wrongs/>

<sup>8</sup> Trey Garrison, *Lawsky letter condemns alleged Ocwen conflicts*, HOUSINGWIRE, February 26, 2014, available at <http://www.housingwire.com/articles/29117-lawsky-letter-condemns-alleged-ocwen-conflicts>



These California counselor responses are consistent with complaints filed with the CFPB by California consumers. According to the CFPB complaint database, the most complaints relating to loan modification and loan servicing in California have been filed against Bank of America, Wells Fargo, Ocwen, JPMorgan Chase, and Nationstar, in that order.

**HOMEOWNER COMMENTS:** "WITHOUT HERA'S ASSISTANCE, I WOULD HAVE LOST THE HOUSE IN FORECLOSURE BECAUSE OF BANK OF AMERICA'S INACCURATE REVIEW AND ERRONEOUS DENIALS. I WOULD HAVE BELIEVED THEM WHEN THEY TOLD ME THAT I DIDN'T QUALIFY FOR HELP, EVEN THOUGH THEY WERE NOT TELLING ME THE TRUTH, BECAUSE I DIDN'T HAVE ENOUGH INFORMATION TO DISPUTE IT."

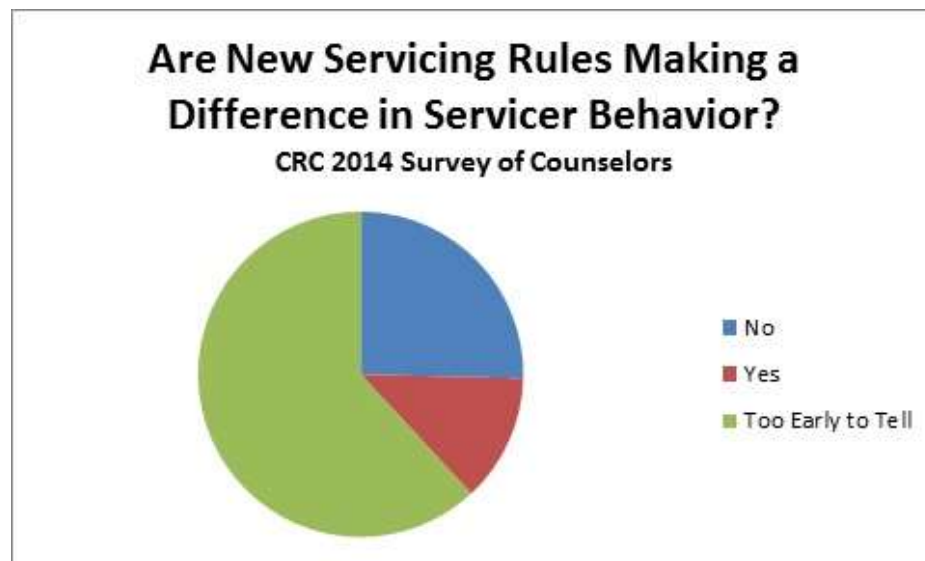
### **3. At the time of the survey, respondents felt it was too early to tell if the CFPB servicing rules were making a difference.**

CFPB's much anticipated mortgage servicing rules took effect January 10, 2014. The rules are important in that they continue the trend of establishing uniform national standards for loan servicing, and they clarify and expand certain protections. Significantly, the new federal rules do not preempt or supersede any state foreclosure laws that may be stronger, like California's Homeowner Bill of Rights.

The survey asked counselors if the new CFPB servicing rules were having an effect on servicer conduct and compliance. Though the rules were in effect for only weeks or months when counselors completed the survey, servicers were given plenty of notice and should have reconfigured their operations long before January 10, 2014 in order to ensure compliance when the rules went live.

For the most part, however, counselors felt it was too soon to tell whether the rules were having any effect.

- 61.9% of respondents, said “It’s too early to tell,” if the rules are working.
- 25.4% of respondents, said, “No, things are the same.”
- 12.7% of respondents, said, “Yes, the rules are improving servicer practices.”



#### **Loan Servicing Transfer Results in Improper Foreclosure**

Carlos Castillo and his wife purchased their home in Vallejo in 1988. In 2011, Mr. Castillo was injured on the job and as a result, his income dropped. They hired a company to help them secure a loan modification, but the company took their money and did not help them. As a result, the Castillos fell further behind on their mortgage. In July of 2012, HERA helped the Castillos apply for a loan modification, and they received a trial plan from Bank of America. The Castillos made all of the payments on time. In December 2012, Mr. Castillo signed the final loan modification paperwork from Bank of America.

In February 2013, Bank of America transferred the Castillo’s loan servicing to Nationstar. On March 13, 2013, Mr. Castillo learned that his home had been sold into foreclosure when a woman called to say he had three days to leave his home. HERA was able to get Nationstar to cancel the foreclosure and on May 6, 2013, the Castillos signed new loan modification documents with Nationstar. But throughout the whole ordeal, Mr. Castillo continued to receive automated calls from Nationstar, sometimes three or four a day.

On July 9th 2013, Mr. Castillo came home to find a Notice of Trustee Sale posted to his front door, and later received 12 copies of the notice in the mail. HERA contacted Nationstar to halt the sale, as final modification documents were received from Nationstar in June. But Mr. Castillo’s next monthly statement included \$1,339.31 in legal fees for the wrongful foreclosure Nationstar processed. Nationstar eventually removed the fees. Despite doing everything that Bank of America and Nationstar asked of them, the Castillos faced foreclosure on more than one occasion, and endured constant stress and panic. *[Summary of declaration of Carlos Castillo, full declaration dated May 13, 2014 can be found in the Appendix]*

#### **4. CFPB servicing rules could go further in protecting homeowners, and enforcement of existing rules is critical.**

Counselors were asked to list up to three issues that were not dealt with sufficiently by the new CFPB servicing rules. Some counselors skipped the question, and others responded by indicating they could not identify any gaps. But most counselors did identify issues that were not sufficiently addressed by the rules. The category identified most often by counselors related to accountability. This highlights the need for CFPB and other regulators to enforce the rules and to penalize noncompliance. The story of the foreclosure crisis to date has been an inability to develop adequately protective rules that can prevent abuse. Even where helpful rules are in place, there is little to no consequence for the servicers' continued noncompliance with those rules. The private right of action (ability to sue) in the California Homeowner Bill of Rights highlights this dynamic, as advocates and industry watchers have noted that servicers did slow the foreclosure process and fewer abuses were reported after the effective date of HBOR with its strong protections and private right of action. The lack of a clear and credible enforcement mechanism of strong rules may have doomed other regulatory responses to the foreclosure crisis to date.

##### **COUNSELORS RESPOND:**

"[THE RULES HAVE] NO TEETH. [SERVICERS] BREAK A RULE AND, THEY SAY 'SO WHAT?'"

**Biggest concern: Will rules be enforced?** A plurality of respondents expressed concern that the new rules would not be enforced and/or emphasized the need for strong enforcement. *Nearly half* of respondents identified issues that we labeled "accountability issues."

**Next biggest issues not addressed: SPOCs, mortgage servicing transfers, and widows and orphans.** While the CFPB has addressed each of these areas in its rule making and guidance, the level of concern about the prevalence and impact of these problems argues for heightened scrutiny by CFPB. The CFPB should look to strongly enforce protections that exist relating to these areas, and consider whether additional rule making enhancements are necessary to adequately protect consumers.

##### **Loan Servicing Transferred in the Middle of Trial Modification Causes House to Almost be Foreclosed**

Emilio and Maria Contreras were approved for a HAMP trial modification by Bank of America. After they made their first trial payment in June 2013, their loan servicing was transferred to Nationstar. When they sent their second trial payment to Nationstar in late July, Nationstar refused to accept the payment and told the homeowners they had to pay \$21,708.41 to bring their account current. On August 16, the borrowers found a Notice of Trustee's Sale posted on their front door. They were confused and scared and called Nationstar right away, but were only told to call back within 2 weeks of the sale. With help from HERA attorneys, they got the trustee sale cancelled, and Nationstar started accepting the trial modification payments. The modification should have been finalized in October 2013, but because of further errors by Nationstar – including trying to charge the borrowers over \$1,000 for the wrongful trustee sale notice – it took until January 2014 for Nationstar to finalize their permanent modification and fully reconcile their account. *[Summary of declaration of Emilio and Maria Contreras, full declaration dated May 14, 2014 can be found in the Appendix]*

**Dishonorable mention: Lack of definition as to what constitutes a “complete loan modification application;” dual track violations; failure to properly serve Limited English Proficient (LEP) borrowers; and timeline violations.** These issues were identified by a number of counselors as areas not sufficiently addressed by the new servicing rules. Dual track violations, failure to assist LEP borrowers and inordinate delays in processing loan modification applications have plagued homeowners for years. The need to clarify what constitutes a “complete loan modification” in order to fully protect homeowners against dual track and other abuses was first raised by California Monitor Katherine Porter as her office monitored servicer performance under the National Mortgage Settlement.<sup>9</sup>

#### **After 2 Year Saga, Mortgage Finally Modified, but then Servicing is Transferred**

Teresa Rowland first requested mortgage assistance from JPMorgan Chase in 2008, after she suffered a financial hardship. After years of effort, she was offered a permanent HAMP modification in October 2011. Though she has made every payment called for by the modification agreement on time, Chase failed to make the modification permanent, and continued to treat the loan as in default, bombarding her with calls and letters saying she was over a hundred thousand dollars in default, and accusing her of not making payments.

Chase sent four different loan modification agreements to the Rowland family over two years; the second and third—received in January 2012 and May 2013—contained substantially worse terms than the original loan modification, and included errors in the unpaid principal balance, the current due date and the modification terms. Chase made a shocking series of mistakes on Ms. Rowland’s case, a number of which Chase has acknowledged. In February of 2013, a representative from Chase’s Executive Offices assigned specifically to resolve the problem even said he was stunned and “mystified” by the situation.

The Rowland family finally received a final loan modification agreement in July, 2013 that substantially tracked the original loan modification agreement. But just when Ms. Rowland thought the incredible saga was behind her, she learned that her loan had been transferred to Select Portfolio Servicing starting August 1, 2013. Two months after the transfer, SPS had not honored the modification agreement, and was still treating Ms. Rowland’s loan as in default. *[Summary of declaration of Teresa Rowland, full declaration dated October 15, 2013 can be found in the Appendix]*

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<sup>9</sup> California Monitor, *The ‘Complete’ Application Problem: A Solution to Help Homeowners and Banks Work Together*, June 19, 2013, available at <http://californiamonitor.org/wp-content/uploads/2013/06/FINAL-June-19-Complete-App-Monitor-Report.pdf>

**A plethora of suggestions.** Counselors identified several areas not easily categorized, that they felt were not fully addressed by the CFPB servicing rules. A sampling of these issues include:

- *“There must be an easier way to handle the whole modification process.”*
- *“[The trial modification agreements mention no terms] except the payment. There never is a breakdown of escrow, interest rate, or the term of the loan. Clients are left in the dark and are forced to make the trial payments if they want a permanent modification.”*
- *“Certain rights should not [be] tied to a single application (i.e. [borrowers] lose rights even if reapplying [because] of change in circumstance[s] or servicer error)”*
- *“Look-back period for requests for escrow information] should not have been shortened ([as they were in] RESPA).”*
- *“Acceptable profit and loss for self-employed.”*
- *“[Banks should] cooperate with short sales/postponements.”*
- *“Definition of “loss mitigation”.”*
- *“The same guidelines for all servicers.”*
- *“High Fees, which seem predatory and [Servicer] charges \$12 to pay online.”*

## **5. Borrowers and neighborhoods of color, and Limited English Proficient borrowers and communities, are receiving worse outcomes**

All borrowers in need of a loan modification face challenges in securing one, and foreclosure prevention efforts have been less successful than needed across the board. But borrowers, counselors and advocates in the hardest hit neighborhoods continue to feel that the outcomes are worse for certain groups and certain neighborhoods. A recently released report on at-risk neighborhoods that are saturated with underwater homes found that in almost two-thirds of the hardest-hit ZIP codes in the U.S., African-Americans and Latinos account for at least half of the residents.<sup>10</sup>

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<sup>10</sup> Peter Dreier, Saqib Bhatti, Rob Call, Alex Schwartz and Gregory Squires, *Underwater America: How the So-Called Housing “Recovery” is Bypassing Many American Communities*, University of California at Berkeley Institute for Equity, Inclusion and Diversity. Available at: <http://diversity.berkeley.edu/underwater-america-report>

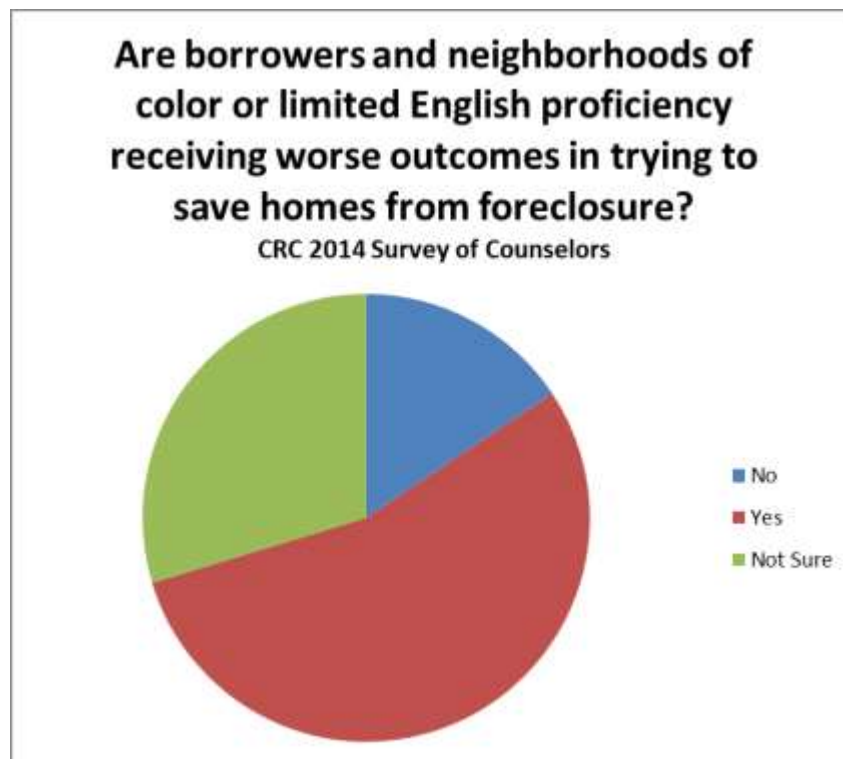


CRC surveys over the last few years have asked counselors if they see disparities in the outcomes their clients receive. Most of the time the question is asked, most respondents indicate that certain borrowers appear to receive worse outcomes.

This survey response was no different.

- 54.7%, or 35, counselors reported that borrowers and neighborhoods of color and Limited English Proficient borrowers and communities were receiving worse outcomes.
- 29.7%, or 19 counselors, were unsure.
- 15.6%, or 10 counselors, did not feel there were such disparities.

**COUNSELORS RESPOND:** “[...] BORROWERS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH HAVE A DIFFICULT TIME COMMUNICATING WITH THEIR SERVICER UNLESS THEY HAVE A FAMILY MEMBER WHO CAN HELP THEM. LOAN MODIFICATION AGREEMENTS ARE IN ENGLISH AND SOMETIMES THESE HOMEOWNERS DO NOT UNDERSTAND THE TERMS OF THE PROPOSED MODIFICATION. FOR EXAMPLE, ONE SERVICER GAVE A "PRINCIPAL REDUCTION" BUT IN REALITY IT WAS JUST BACK-ENDED ON THE LOAN WITH A BALLOON PAYMENT DUE A FEW YEARS DOWN THE LINE. THE HOMEOWNER ACCEPTED THE MODIFICATION AND HAD NO IDEA ABOUT THE BALLOON.”



CRC, California counselors and allies have expressed concern for years about the disparate impacts of loan servicing violations and consumer relief distribution on protected classes and hard hit neighborhoods. These concerns were supported by the February 2014 release of a report by the Government Accountability Office (GAO) that looked at *non-public* HAMP data provided by the Treasury Department. The GAO's analysis of HAMP loan-level data for four large Making Home Affordable (MHA) servicers identified some statistically significant differences in the rate of denials and cancellations of trial modifications and in the potential for re-default between populations protected by fair lending laws and other populations.<sup>11</sup> The GAO cited CRC surveys and housing counselors for noting that LEP borrowers continue to encounter language-related barriers in obtaining access to MHA program benefits. The GAO concluded that without a comprehensive strategy that includes guidance for servicers on engaging with LEP borrowers and monitoring of servicers, Treasury cannot ensure that all potential MHA participants have equal access to program benefits.

On the day after President Obama first announced the HAMP program in February of 2009, CRC urged the President to enhance his housing plan to: "Require loan servicers to report detailed data about loan modifications so that policymakers and the public can track their progress and hold them accountable. The data should reveal which banks are doing loan modifications, what those loan modifications look like, and which racial, ethnic and income groups are getting the modifications."<sup>12</sup> It is time for regulators and industry to finally provide more transparency around which borrowers and which neighborhoods are getting relief.

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<sup>11</sup> U.S. Government Accountability Office, *GAO-14-117, TROUBLED ASSET RELIEF PROGRAM: More Efforts Needed on Fair Lending Controls and Access for Non-English Speakers in Housing Programs* (February 2014). Available at: <http://www.gao.gov/products/GAO-14-117>

<sup>12</sup> Comments from the California Reinvestment Coalition on President Obama's Homeowner Affordability and Stability Plan (February 21, 2009).

### **How Loan Servicing Transfers and Language Access Problems Affect Homeowners**

In 2013, after a severe reduction in income, Mr. Moises Valdez was unable to make his monthly payments on his San Diego home, and requested assistance. In June 2013, after he received a notice of default from IndyMac, his servicer, he obtained a loan modification offer, and entered a trial period plan. In September 2013, after meeting all the requirements of the trial period, Mr. Valdez signed and returned the permanent agreement documents to IndyMac, but his loan had been transferred to Ocwen and he was told that he needed to return the agreement to Ocwen.

After sending in his permanent agreement to Ocwen, Mr. Valdez received no statements from September 2013-March 2014. When he asked why this was so, he was told that it was because he was considered in foreclosure. Without any statements, Mr. Valdez was unable to see whether and how his payments were being applied to his mortgage. Additionally, he was not allowed to make payments through his bank, using ACH, so he was forced to make payments over the phone, incurring \$48 in fees over these months. In an October 24, 2013 letter, Ocwen acknowledged that Mr. Valdez completed his trial modification plan with Indymac, and that his account had not yet been updated to reflect his modification status, but that his account was past due and being sent to foreclosure. When he called his SPOC, Mr. Valdez was told that Ocwen still had not received the paperwork from Indymac.

Finally, in January 2014, Ocwen refused to accept payments. In February 2014, Ocwen returned Mr. Valdez' payments, and told him that he would have to pay \$17,000 to reinstate his account. In March 2014, Mr. Valdez received a statement that continued to show the pre-modification terms under the IndyMac loan, and he is again attempting to obtain a loan modification. He is frustrated that Ocwen did not honor the loan modification offer that Indymac made.

Additionally, Mr. Valdez faced several language barriers in trying to communicate with Ocwen. Although Mr. Valdez does not speak English fluently, he was sent English-only documents, and was consistently unable to access sufficient Spanish-language services which forced him to converse about complicated banking and lending terms in English. He has worked with translators provided by Ocwen who do not speak Spanish well, or do not speak a dialect he can understand. He has been told that there is no translator available when he calls, and has been left on hold for a half hour while someone searches for a translator. *[Summary of declaration of Moises Valdez, full declaration dated April 7, 2014 can be found in the Appendix]*

## **Are Limited English Proficient homeowners and homeowners of color receiving worse loan modification outcomes?**

### **Counselors share their experiences:**

- “Still not having assistance available to LEP borrowers for their native language, especially Asian languages.”
- “Servicer (Nation Star) does not provide any translation services other than English.”
- “We have seen borrowers whose primary language is not English have a difficult time communicating with their servicer unless they have a family member who can help them. Loan modification agreements are in English and sometimes these homeowners do not understand the terms of the proposed modification. For example, one servicer gave a "principal reduction" but in reality it was just back-ended on the loan with a balloon payment due a few years down the line. The homeowner accepted the modification and had no idea about the balloon.”
- “Servicers still do not have adequate accommodations for Spanish speaking consumers. Reliance on counseling network to translate for them.”
- “Servicers' actions and communications do not make sense to native English speakers, much less LEP communities. And there is less of a sense of obligation to have a knowledgeable SPOC. It also seems that residents of higher wealth neighborhoods and neighborhoods less diverse have been getting modification offers, unsolicited, while everyone else has to slog through a miserable and poorly run process.
- “They don't know who to trust to get help.”
- “They have these consumers pigeon-holed as most likely to default and have bad attitudes in working with these clients. Skim over facts and do not take enough time to explain what is necessary. Poor rapport.”
- “The servicers do not have the staff needed to handle clients that speak a different language. In addition, their paperwork is not in their native language. Therefore the clients are not getting the help they need due to the language barrier.”
- “Lender sends all correspondence to client in English. Many times clients in this groups have to do social security verifications.”
- “None of my Latino clients have had a fair deal.”
- “We serve areas with large Hispanic communities and have seen good modification and others that are not so good, but it is balanced.”
- “Spanish speaking phone calls are constantly dropped. Language accessible SPOCs are rare within mortgage servicers or they lack the language proficiency to accurately share file information with the client/counselor.”
- “We are seeing that higher income clients are receiving better and faster modifications than low to moderate income clients.”
- “Banks continuously say they have no duty to send paperwork in Spanish and fail to do so. (Wells Fargo).”
- “Translation services deficient or non-existent. Delays in phone conversations when requesting a translator. Clients not understanding procedures / trials for modifications.”
- “Without proper translation or interpretation, the homeowners would not fully understand the process and the required documents in order to avoid foreclosure.”
- “LEP borrowers face problems when they try to discuss accounts and errors with servicers.”
- “Have not seen many trial or permanent modifications lately with above mentioned clientele. The servicer only pushes for short sales.”

## **6. Widows and orphans and similarly situated homeowners, are still more vulnerable to foreclosure and need stronger rules, awareness and enforcement**

In our last survey, 80% of responding counselors reported having “widows” and related clients, and large percentages reported that servicers often would not speak to such homeowners, would require them to go through costly and unnecessary hoops, and would leave them more vulnerable to foreclosure.

CRC, Housing and Economic Rights Advocates (HERA) and allies have advocated<sup>13</sup> to end the problem of surviving family members and other successors in interest facing added barriers to preserving their homeownership after a loved one passes.<sup>14</sup>

In 2013, we were gratified to see CFPB,<sup>15</sup> Fannie Mae,<sup>16</sup> Freddie Mac,<sup>17</sup> and Treasury, through the HAMP program,<sup>18</sup> begin to develop rules and guidelines to better protect widows and similar homeowners. Yet HERA and other offices report a continuing stream of such clients.<sup>19</sup> As the population ages, there is a real possibility we will see an increasing number of widows unnecessarily lose their homes if more is not done now. We asked counselors if the federal rule changes were making a difference for “widows” and similar homeowners.

- 87%, or 40, counselors said “no, the widows and orphans problem persists, and more needs to be done.”
- 13%, or 6, counselors said, “Yes, rule changes have fixed the widows and orphans problem.”
- 20 counselors skipped this question, presumably because they do not have “widows” clients.

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<sup>13</sup> See, letter from California Reinvestment Coalition, Housing and Economic Rights Advocates, other advocates to OCC Comptroller Curry, Federal Reserve Board Governor Bloom Raskin, and CFPB Director Cordray, December 10, 2012. Available at: <http://bit.ly/widowhomeownerletter>

<sup>14</sup> Jessica Silver-Greenberg, *Mortgage Catch Pushes Widows Into Foreclosure*. NEW YORK TIMES, December 1, 2012, available at: <http://www.nytimes.com/2012/12/02/business/widows-pushed-into-foreclosure-by-mortgage-fine-print.html>

<sup>15</sup> Consumer Financial Protection Bureau, *Implementation Guidance for Certain Mortgage Servicing Rules*, CFPB Bulletin 2013-12, Oct. 15, 2013, available at [http://files.consumerfinance.gov/f/201310\\_cfpb\\_mortgage-servicing\\_bulletin.pdf](http://files.consumerfinance.gov/f/201310_cfpb_mortgage-servicing_bulletin.pdf)

<sup>16</sup> Fannie Mae Lender Letter LL-2013-04 Transfer of Ownership and Mortgage Assumptions, February 27, 2013, available at <https://www.fanniemae.com/content/announcement/ll1304.pdf>

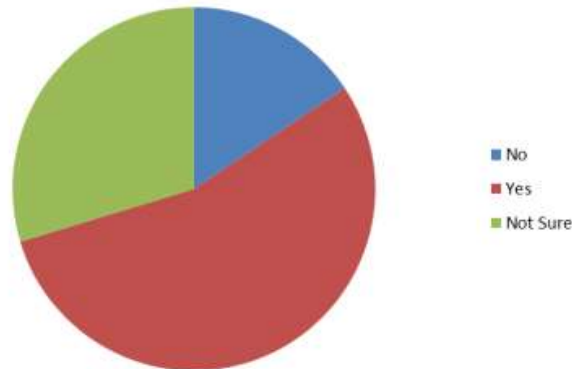
<sup>17</sup> Freddie Mac Bulletin, Number 2013-3, Mortgage Assumptions and Modifications for Non-Borrowers, February 15, 2013, available at <http://www.freddie.mac.com/singlefamily/guide/bulletins/pdf/bl1303.pdf>

<sup>18</sup> Making Home Affordable Program, *Supplemental Directive 13-06, Making Home Affordable Program, Administrative Clarifications*, August 30, 2013, available at [https://www.hmpadmin.com/portal/programs/docs/hamp\\_servicer/sd1306.pdf](https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/sd1306.pdf)

<sup>19</sup> CRC and HERA have been in touch with nonprofit organizations and law offices throughout the country concerning the “widows” issue, including a recent conversation with Hawaiian Community Assets, a nonprofit group working with one client already named a “successor” under Hawaii law, who is trying without success to assume a Hawaiian Homelands loan in the name of her deceased mother. Hawaiian Community Assets reports that it has confirmed with the FHA National Servicing Center that there are several such FHA 247 loans languishing while surviving family members on Hawaiian Trust Lands grieve, and as the family home moves closer to foreclosure.

**Are borrowers and neighborhoods of color or limited English proficiency receiving worse outcomes in trying to save homes from foreclosure?**

CRC 2014 Survey of Counselors



**Are Banks Following New Guidelines in Helping Family Members to Retain a Family Home?**

Ian Kelly currently lives in the Oakland home formerly owned by his father, Gregory Kelly, who passed away in July of 2013. Before he passed, Gregory Kelly placed his home in a trust, naming his son Ian as the beneficiary so that he could take ownership of the family home upon his death. Ian's father fell behind on the payments as he was battling cancer. Chase, the servicer, offered a workout plan, but after the payments increased, the family could no longer afford the plan. Chase pursued a foreclosure, setting a sale date of December 2013.

Ian Kelly applied for a loan modification review in November 2013, seeking a simultaneous loan modification and assumption of his father's loan, and submitting extensive documentation. Chase was slow to act and respond throughout the entire process, requesting the same documents multiple times. Additionally, both Mr. Kelly and HERA had difficulty reaching their SPOC, or, indeed, anyone who could provide them with information. Chase ultimately responded that they did not have authorization to talk to Ian Kelly, or his representatives at HERA. After HERA escalated the matter, Chase contacted HERA and informed it that Chase would be conducting a review to see if Mr. Kelly would be able to assume the loan. While waiting to hear back from Chase about his eligibility for a loan modification and assumption, Mr. Kelly received a Notice of Trustee sale scheduled for February 13. Chase proceeded to send confusing letters and forms, but not any information regarding Mr. Kelly's eligibility for assistance.

Fearing that Chase would foreclose on him before deciding on his loan mod application, Ian Kelly began exploring a short sale. Chase immediately halted review of his loan modification/assumption application, then informed Mr. Kelly that it would not approve a short sale, and rescheduled the sale date for April 14, 2014. On March 5, Chase advised Mr. Kelly and HERA that he should resubmit his loan modification application and start all over. Mr. Kelly still does not know when or if Chase will make a decision on his loan modification application and allow him to stay in the home his father left to him. *[Summary of declaration of Ian Kelly, the full declaration dated March 7, 2014 can be found in the Appendix].*

## **Are Servicers Helping Widows or Orphans to Avoid Foreclosure?**

### **Counselors share their experiences:**

- “The servicer keeps insisting that the widow or widower does not live there because the deceased borrower does not live in the property, so they say that it is not owner occupied and that they don't qualify for the HAMP.”
- “It’s still a huge problem.”
- “I haven't received any help and neither has the surviving spouse.”
- “The representatives on the phone have no idea of this.”
- “I still feel there is a problem with this because not all agents of these servicing companies are aware of the changes [and] it therefore causes us to escalate to supervisors etc. so we can finally get the right people that are aware of the changes. Servicers need to do a better job about training their staff.”
- “Seems information is inconsistent when Fannie Mae and Freddie Mac are investors.”
- “Banks do not know of the rules.”
- “The customer service reps are not updated with the rules, it doesn't make a difference when you call in and try to speak to a representative. It’s frustrating when you are forced to explain the rules.”
- “Problem still exist. They know they are not supposed to do this and say they are taking care of the problem, but it is still a BIG problem.”
- “Servicer is not aware of the new rule and it seems that servicers are not trained.”
- “I've only had 1 and they had no idea of what I was talking about, kept stating, 'no, you are wrong.' Frustrating that most HC [Housing Counselors] [know] more about new rules & standards than financial institutions.”
- “At least we can point to the GSE guidance as a starting place, and now the CFPB rule to help give us a leg up. But what's happening to all of the widows and orphans without representation? Servicers have not changed their practices and will not unless there is auditing and enforcement.”

Housing counselors and homeowners who are encountering unreasonable obstacles in assuming the mortgage for a recently deceased family member are encouraged to share their experience with Housing and Economic Rights Advocates via email:

**familyhome@heraca.org**

### **Surviving Family Members Face Unreasonable Obstacles**

Sheetal Sharma owns a house with her sister Varsha and her mother, Snehlata, in Los Angeles. The house was owned by her father until he passed away in June 2010. Although Ms. Sharma provided EMC with a death certificate, a deed transferring title to her, her mother, and her sister, and trust documents which established her and her sister as trustees, EMC refused to provide information about the loan to her. Though EMC accepted mortgage payments made by Ms. Sharma after her father's death, it refused to speak with her about the loan or tell her how much was due.

EMC ignored the trust documents, and instead insisted it would speak with her only if she produced proof that she was the executor of her father's estate -- even though she had received title to the property through a trust, not probate, and there was no executor and no estate. As EMC refused to give her any information and proceeded towards foreclosure, Ms. Sharma withheld payment and instead deposited the money in a bank account. A notice of default was filed, with EMC continuing to refuse to talk to Ms. Sharma, despite repeated calls. In September 2010, EMC acknowledged Ms. Sharma and her sister as Co Successor Trustees, but continued to deny them access to any information about the account.

After Chase took over servicing of the loan, it continued to direct correspondence to Ms. Sharma's deceased father, at one point in 2011 writing her father and asking him to call Chase to finalize a request for a power of attorney. Ultimately, in 2011, Chase allowed Ms. Sharma and her sister to apply for a loan modification, but then denied the modification, claiming they had to assume the loan and bring it current first. Ms. Sharma and her sister have submitted numerous applications for modification and assumption at Chase's request since that time without success. On December 30, 2013, Chase sent Ms. Sharma's deceased father another letter. *[Summary of declaration of Sheetal Sharma, full declaration dated February 17, 2014 can be found in the Appendix]*



## Recommendations

In order to prevent further unnecessary foreclosures and to start stabilizing California communities, we need:

1. **Enforcement of the rules.** The failure to hold servicers accountable for ignoring the rules is the number one complaint of homeowner advocates. Settlement agreements, rules and laws are of little value if servicers refuse to abide by them, and regulators refuse to compel them to do so. Special scrutiny must be applied to **SPOC failings** to ensure that NMS, HBOR and CFPB servicing rules are being followed and that homeowners are not getting the run around. And state regulators, along with Fannie Mae, Freddie Mac and their regulator, the Federal Housing Finance Agency (FHFA), should scrutinize the sale of **mortgage servicing rights** to non-bank servicers to ensure they are honoring loan modifications and prior negotiations, so that homeowners do not have to start over again from square one, at best, or fall through the cracks into foreclosure, at worst.
2. **A solution to the “widows” problem.** No one can be happy with the status quo, whereby widows and similar homeowners are losing their homes because they were not listed on the original loan, and the servicers are failing to follow the rules and allow them to take over the loan while receiving a loan modification for which they qualify. CFPB, FHFA, Fannie Mae, Freddie Mac, and the Federal Housing Administration (FHA) should aggressively investigate whether servicers are failing to follow successor in interest laws and rules, and take enforcement action where there are violations. The California Legislature should craft and pass a bill to clearly establish that successors and similarly situated homeowners are entitled to protection under the Homeowner Bill of Rights, and have a right to sue servicers who fail to respect those rights. Widows and similar homeowners deserve stronger legal protections, better enforcement of those laws, and access to representation to vindicate their rights.
3. **Funding of legal service lawyers and housing counselors.** Homeowners are more likely to keep their homes, access relief and vindicate their rights if working with a nonprofit housing counselor or legal services lawyer. In order to hold violators accountable for breaking the law, we need to build the capacity of legal service offices. Housing counselors often note that while they see clients with problems that the counselors are ultimately able to unravel, they cannot imagine how clients would fare on their own. The foreclosure crisis is not over. Grant awards by the California Attorney General’s office to support housing counseling and legal services have made a difference, but more needs to be done. The California Legislature and Governor took \$400 million from the National Mortgage Settlement to backfill the state budget a few years ago during a budget crisis, but now that California is in the black, that funding should be restored to the Attorney General’s office and used for the purposes intended by the NMS agreement, namely, to reduce foreclosures.

#### 4. Fair lending transparency.

- **The Department of Justice and the Consumer Financial Protection Bureau should make fair lending transparency a priority in the implementation of recent settlement agreements.** Specifically, DOJ and CFPB should require that JPMorgan Chase and Ocwen, respectively, report monthly and publicly on the race, ethnicity, gender, income and census tract of borrowers who seek, and those who obtain, the billions of dollars in principal reduction loan modification relief that are required under those settlement agreements. This will enable the public to know whether all borrowers and all communities have equal access to legal protections and loan modifications. In the GAO report cited earlier, the GAO does not disclose which non-public bank data it analyzed, but does note that Chase and Ocwen were two of the five institutions GAO researchers spoke with about their policies and practices.
- **The CFPB should require the reporting of such data from all lenders and servicers covered by the Home Mortgage Disclosure Act (HMDA).** CFPB is currently revising HMDA rules, which were established to help identify discrimination, help local governments direct resources to neighborhoods where they are needed, and help identify whether financial institutions are meeting the housing needs of communities. Promoting fair lending transparency through public reporting of localized loan modification data and linguistic data (in what language was the loan negotiated, in what language were the disclosures and loan documents submitted to the borrower) is perfectly consistent with, and would substantially further the goals and purposes of, HMDA.
- **Local governments should continue to develop Responsible Banking Ordinances** and continue to seek such localized data from financial institutions that want to obtain a city or county's banking businesses. The City and County of San Francisco put out a banking Request for Proposal that included questions relating to applicants' foreclosure filings and loan modifications by race, ethnicity and census tract in San Francisco. To its credit, Bank of America provided this data, and was awarded the City and County's credit card business contract. The fact that Bank of America provided this data argues for all institutions to provide it, for cities to seek it, and for CFPB and DOJ to require its collection and reporting.
- **The Treasury Department should implement the recommendations in the GAO report and identify which four servicers the GAO analyzed in determining there were significant differences in HAMP outcomes for protected classes of borrowers.** The GAO identified five servicers it contacted as part of its study, but did not identify the four servicers whose *non-public* HAMP data it analyzed. CRC will be filing a FOIA request to ascertain which four institutions were the subject of that analysis. Treasury and/or the GAO should disclose this information. In addition, Treasury should quickly respond to the GAO's recommendations by issuing guidance and monitoring servicer conduct to ensure all borrowers have equal access to HAMP modification assistance. Further, Treasury should refer to DOJ and/or CFPB any institution where non-public or other data suggest there are potential fair housing or fair lending violations.

5. **Fair lending audits at servicer shops.** CRC, New Economy Project, and Reinvestment Partners co-sponsored a resolution before the Bank of America and Wells Fargo shareholders last year, and at this year's Wells Fargo annual shareholder meeting. The resolution called for Wells Fargo to conduct an independent fair lending audit of its foreclosure and mortgage servicing operations.<sup>20</sup> CRC urges Wells Fargo and all loan servicers to conduct such an audit to ensure they are complying with fair lending laws and principles. Conducting an audit will answer questions about whether foreclosure prevention efforts are fair, and would better protect those institutions. The CRC, NEP and RP resolution "... had been supported by proxy adviser Institutional Shareholder Services Inc. It [ISS] pointed to evidence that the company's mortgage-servicing and foreclosure practices "expose it to extraordinary risks, including potential losses from claims that its practices continue to harm black and Latino mortgage borrowers disproportionately."<sup>21</sup>

**The foreclosure crisis has not ended. Strong and swift action is needed to protect homeowners and stabilize hard hit communities.**

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<sup>20</sup> New Economy Project, Reinvestment Partners, and the California Reinvestment Coalition, *Wells Fargo Shareholder Resolution*, available at: <http://bit.ly/wellsresolution>. The shareholder resolution was to "conduct an independent review of the Company's internal controls to ensure that its mortgage servicing and foreclosure practices do not violate fair housing and fair lending laws, and report its findings and recommendations, at reasonable cost and omitting proprietary information, to shareholders by September 30, 2014" (April 3, 2014).

<sup>21</sup> Saabira Chaudhuri, *Mortgage Complaints Overrun Wells Fargo Shareholder Meeting—Update*, WALL ST. JOURNAL, April 29, 2014. Available at: <http://online.wsj.com/news/articles/SB10001424052702304893404579531643398601288>

This report was prepared by Kevin Stein and Divya Rao, with helpful edits and assistance from Sean Coffey, Jessica Martinez-Escobar, and Paulina Gonzalez. Helpful comments on early versions of the survey were provided by Maeve Elise Brown with Housing and Economic Rights Advocates. CRC is grateful for the participation of housing counselors and legal service advocates from across the state for completing the survey and sharing their insights based on their experiences in working with homeowners to avoid foreclosure.

CRC is deeply indebted to attorneys at Housing and Economic Rights Advocates ([www.heraca.org](http://www.heraca.org)), including Executive Director Maeve Elise Brown, Noah Zinner, Lisa Sitkin, Elizabeth Letcher, Cynthia Singerman, and Joseph Jaramillo, for their work with the homeowners whose declarations are included in this report, their participation and design of this survey, and their insights into this report. We also appreciate the homeowners sharing their experiences. All errors are strictly those of the primary author.

*The California Reinvestment Coalition advocates for the right of low-income communities and communities of color to have fair and equal access to banking and other financial services. CRC has a membership of over 300 nonprofit organizations and public agencies across the state.*

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# Appendix

The following homeowners have agreed to publicly share their experiences. Declarations were prepared with attorneys from Housing and Economic Rights Advocates, and are included in this report as well as hyper-linked below.

Homeowner	Link to Declaration
Gemma and Cornelio Jaochico	<a href="http://bit.ly/gjaochicodeclaration">http://bit.ly/gjaochicodeclaration</a>
Enrique Hurtado	<a href="http://bit.ly/hurtadodeclaration">http://bit.ly/hurtadodeclaration</a>
Josefina Duenas	<a href="http://bit.ly/duenasdeclaration">http://bit.ly/duenasdeclaration</a>
Arminda Garcia	<a href="http://bit.ly/garciadeclaration">http://bit.ly/garciadeclaration</a>
Nicholas and Kimberly Cavanaugh	<a href="http://bit.ly/cavanaughdeclaration">http://bit.ly/cavanaughdeclaration</a>
Carlos Castillo	<a href="http://bit.ly/castillodeclaration">http://bit.ly/castillodeclaration</a>
Emilio and Maria Contreras	<a href="http://bit.ly/contrerasdeclaration">http://bit.ly/contrerasdeclaration</a>
Teresa Rowland	<a href="http://bit.ly/rowlanddeclaration">http://bit.ly/rowlanddeclaration</a>
Moises Valdez	<a href="http://bit.ly/mvaldezdeclaration">http://bit.ly/mvaldezdeclaration</a>
Ian Kelly	<a href="http://bit.ly/ikellydeclaration">http://bit.ly/ikellydeclaration</a>
Sheetal Sharma	<a href="http://bit.ly/sharmadeclaration">http://bit.ly/sharmadeclaration</a>

Borrower: Gemma Jaochico

Address: [REDACTED]

Wells Fargo loan number: [REDACTED]

We, Gemma and Cornelio Jaochico, declare:

1. Our family fell behind on our mortgage at the end of November 2012 when Gemma lost her job with PG&E. We incurred medical bills for our child because Cornelio's health benefits had higher copays for visits and medications.
2. On July 6, 2013 Gemma spoke on the phone with a Wells Fargo representative, Darla Lewis, about a mortgage modification. We submitted our application on July 8.
3. We later received two letters dated July 8, 2013 from Wells Fargo, each indicating a different SPOC for our mortgage modification application. Though our initial SPOC was Darla Lewis, one of the letters identified Angela Blount as our SPOC. When we tried to contact Angela we were told she was on vacation.
4. We received an email from Wells Fargo on July 9 that listed additional documents that were needed and included a request form.
5. Gemma spoke again with Darla Lewis for about four hours on July 10 or 11. Darla became very sympathetic to our case and even said she was having trouble sleeping at night because of it. We were informed afterwards that she would no longer be our SPOC.
6. We faxed the documents Wells Fargo described in their July 9 email to us on July 11 and got a letter dated July 12 from Wells Fargo confirming they had been received. Wells Fargo then told us that it would postpone the scheduled sale of our home.

7. After our last conversation with Darla Lewis on July 10 or 11, we received several voicemails from Wells Fargo during our work hours. However the messages contained no specific instructions and only indicated that we should call back. When we did, we were never able to reach the SPOC (Angela Blount) – so we left voicemails.
8. Our interactions with the SPOCs led us to believe that we had submitted a complete application and that Wells Fargo was simply in the review process. Had we been informed there were any issues with our application, we would have resolved them right away.
9. On October 30, 2013 Wells Fargo sold our home in foreclosure. We only learned of the sale when we received a notice from a realtor on November 27. We never received a letter from Wells Fargo about the October 30 sale date of our home.
10. We found out from a court letter on November 30 that Wells Fargo had filed an eviction lawsuit against us.
11. Shortly after this we contacted Housing and Economic Rights Advocates (HERA) for assistance. HERA asked Wells Fargo on December 19, 2013 to look into what had happened to our modification application before the foreclosure and to stop the eviction during the review.
12. Wells Fargo's first explanation to our non-profit advocate, Noah Zinner from HERA, was that they didn't hear from us after the July 8 application and so declined our application.

13. We also learned from HERA that Wells Fargo claimed they had sent a letter on August 19th saying they couldn't complete their review of our application. We never received it.
14. However, HERA sent Wells Fargo a copy of our July 11 fax containing the additional documents that had been requested and asked them to re-review.
15. Wells Fargo then explained that they had received the July 11 fax documents but that our application was still missing information. Wells Fargo told Noah that they sent another letter only one day later on July 12 about additional documents we needed to provide beyond the ones in the July 9 email. We never received this letter, but Wells Fargo gave what they said was a copy of it to HERA in January 2014.
16. Wells Fargo claims that the letter contained a request that we (1) add "2012" to Section 9 of the 4506-T form (2) sign the copies of our 2012 returns (3) explain additional numbers on our tax returns and (4) provide a monthly statement for HOA dues.
17. On January 9 attorneys at HERA contacted Wells Fargo representatives. The bank insisted that we had failed to provide the documents they requested and that the foreclosure was correct.
18. During a phone call on January 14, Wells Fargo told the attorneys at HERA that there was no "area of opportunity" to undo the foreclosure – that regardless of the potential benefit of a modification for everyone involved, Wells Fargo would refuse to consider a modification because they had determined that they were not



at fault for the foreclosure. According to them, that took our case outside the “area of opportunity.”

19. HERA again asked Wells Fargo to reconsider our situation based on the fact that a modification, if we qualified, would be in everyone’s best interest, including the investor on our loan. HERA requested that the bank stop the eviction, undo the foreclosure and review us for a loan modification. HERA believed that we would qualify for a modification because of our increase in income.

20. On January 17, Wells Fargo responded to HERA by phone and said that it could not modify our loan at all because the investor—Wells Fargo Mortgage Backed Certificates 2006-AR17—did not allow modifications.

21. Wells Fargo said that as a result, they could only offer a temporary lower interest rate and a “silent second mortgage” for the payments we were behind on. However they stated that no modification was possible in our case because they had given us a temporary lower interest rate before and we were now too many months behind.

22. After Wells Fargo finally told us that the investor on our loan would not let us modify our loan and that this had never been an option for us, our family offered to pay the investor the full amount that I was behind on the loan so that we could keep the home. Wells Fargo refused. At the same time, Wells Fargo also refused to delay our eviction. Without any other real choices, we agreed to move out of our home by February 28, 2014.

23. The information in this declaration is based on personal knowledge and on information provided to me by Noah Zinner of Housing and Economic Rights Advocates based on their communications with Wells Fargo on our behalf.

By:   
Gemma Jauchico

Date: 5/15/14

**Enrique Hurtado ; LOAN # PROPERTY ADDRESS**  
**AMERICAN CANYON, CA 94503**

**I, Enrique Hurtado, declare,**

1. In January 2013 I, I fell behind on my mortgage payments with Bank of America due to financial hardship. My spouse and I divorced in 2012 and because of this had increased expenses due to additional child support and alimony payments.
2. In March 2013 I applied for a HAMP modification with Cynthia Singerman from Housing and Economic Rights Advocates ("HERA") who contacted Bank of America on my behalf
3. In May 2013, Bank of America denied my modification because "In performing our underwriting of a potential modification, your proposed modified monthly payment which we could offer you...was outside the required range of 25%-42% of your gross monthly income."
4. HERA submitted an appeal letter on May 3, 2013 requesting an NPV analysis and additional explanation about the HAMP Program evaluation. However Bank of America denied the appeal for the same reasons.
5. HERA then submitted a complaint to the HAMP Solutions Center on my behalf on May 21, 2013 because Bank of America refused to provide any additional information in connection with the denial.
6. On June 7, 2013 Bank of America once again denied my HAMP modification due to investor restriction by my investor Goldman Sachs. This denial reason differed from the original reason, which was that Bank of America could not create an affordable payment.
7. Ms. Singerman followed up with Bank of America and HAMP Solutions Center because Bank of America continued to delay the appeal process.
8. Bank of America then stated the reason for denial was because the investor restriction related to HAMP Tier One and not HAMP Tier Two.
9. Bank of America continued to delay my review through August 2013. Then in August 2013, we found out that the investor was not Goldman Sachs, the investor Bank of America referred to in the June 7<sup>th</sup> denial letter but actually the investor was Bank of NY.
10. Meanwhile, HERA submitted multiple complaints to different agencies to speed up the appeal process including the Consumer Financial Protection Bureau.
11. Finally in September 2013, Bank of America offered me a proprietary modification (non-HAMP) trial period plan with terms that they had initially said they could not offer.
12. Then, Bank of America transferred my mortgage servicing to Nationstar, who then honored my modification.
13. Without HERA's assistance, I would have lost the house in foreclosure because of Bank of America's inaccurate review and erroneous denials. I would have believed them when they told me that I didn't qualify for help, even though they were not telling me the truth, because I didn't have enough information to dispute it.

ENRIQUE HURTADO

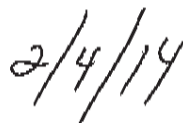
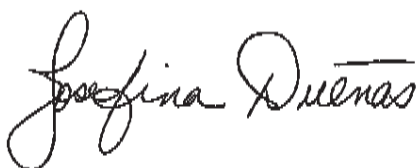
2 - 6 - 2014

Josefina Duenas ; LOAN #

PROPERTY ADDRESS

**I, Josefina Duenas, declare,**

1. In March 2013 I fell behind on my mortgage because my spouse lost his job and our household income decreased significantly.
2. In May 2013 I applied for a HAMP modification with Cynthia Singerman from Housing and Economic Rights Advocates ("HERA") who U.S. Bank on my behalf.
3. We did not hear any response from U.S. Bank until the end of June 2013. At the end of June 2013, U.S. Bank requested additional documents in order to complete my modification review.
4. In the middle of July 2013, U.S. Bank requested additional paystubs and updated documents claiming the documents were out of date. Even though we had submitted the updated documentation in June, U.S. Bank insisted they had the right to request updated documentation on an ongoing basis.
5. In August 2013, U.S. Bank closed my case for failure to return documents and denied my modification after I submitted updated documentation.
6. HERA then submitted a complaint to the HAMP Solutions Center on my behalf on August 12, 2013 because U.S. Bank wrongfully denied my modification and continued to lose documents I previously submitted.
7. On August 16, 2013, I re-applied for a modification with U.S. Bank with HERA's assistance.
8. At the end of September 2013, U.S. Bank had not yet responded to my new updated application and failed to provide me with any of the required notices acknowledging my application.
9. Ms. Singerman followed up with U.S. Bank and HAMP Solutions Center because U.S. Bank continued to delay the modification process.
10. Finally on September 30, 2013, U.S. Bank requested additional documentation that we had previously provided.
11. We re-submitted the additional documentation again in the beginning of October 2013.
12. At the end of October 2013, HERA once again submitted an HSC complaint because U.S. Bank failed to provide an update on the modification review.
13. On November 8, 2013 U.S. Bank once again sent me a request for updated documentation. HERA confirmed with U.S. Bank that this notice was sent in error. .
14. Finally in December 2013, after months of back and forth with both U.S. Bank and the HAMP Solutions Center, U.S. Bank offered me a HAMP trial period plan modification (non-HAMP)
15. Without HERA's assistance, I would have lost the house in foreclosure because of U.S. Bank's ongoing delays and inaccurate review and erroneous denials. I would have believed them when they told me that I didn't qualify for help, even though they were not telling me the truth, because I didn't have enough information to dispute it.



**Arminda Garcia : LOAN #** [REDACTED] **PROPERTY ADDRESS** [REDACTED]  
[REDACTED]

**I, Arminda Garcia, declare,**

1. In June 2010 I, I fell behind on my mortgage payments with Bank of America due to financial hardship. My husband Jesus lost his job and I suffered from health problems that forced me to reduce my hours at work.
2. In February 2012, I paid an attorney to help me apply to Bank of America for a mortgage modification.
3. In July 2012, I received two denial letters from Bank of America. In a letter dated July 11, 2012, Bank of America told me I had been denied because of investor restrictions. In another letter dated July 13, 2012 Bank of America stated that I had been because Bank of America could not verify my identity. I did not understand what Bank of America meant by this.
4. In September 2012, I began working with Cynthia Singerman from Housing and Economic Rights Advocates ("HERA") who contacted Bank of America on my behalf
5. Bank of America confirmed to Ms. Singerman that it denied the modification because of its failure to verify my identity. However, Bank of America's representatives could not provide any documentation or evidence supporting this denial, and could not even explain for certain why it had found this to be a problem in the first place.
6. Based on Bank of America's instructions to HERA, I then submitted a new HAMP application on October 22, 2013 with HERA's assistance. On November 30, 2012 Bank of America denied the file for the Home Affordable Modification Program ("HAMP") but began a review for an in-house modification. Bank of America informed HERA that it had submitted the file to the investor, Wells Fargo, for the review. I later learned that I did qualify for HAMP and that Bank of America's denial was a mistake.
7. On February 2, 2013, Bank of America wrongly denied the in-house modification based on erroneous budget calculations. Bank of America wrongly included debt that had been discharged through my bankruptcy in their debt to income ratio calculations. After Ms. Singerman appealed the decision, Bank of America acknowledged its error on February 6, 2013 and communicated to HERA that I should submit an additional modification packet to be reviewed again. HERA submitted an updated modification packet to Bank of America on February 26, 2013.
8. On April 12, 2013, Bank of America informed HERA that Bruce Woody, the Bank of America representative monitoring the file, failed to upload the updated documents. Because of this, Bank of America had not reviewed me for a modification. Bank of America corrected the problem and the review moved forward. On May 10, 2013, Bank of America again denied the file for HAMP and again began an in-house review.

9. Ms. Singerman followed up with Bank of America on May 17, May 22, and June 7, 2013 about the status of the review but Bank of America told her my application was still being reviewed.
10. On June 21 and July 15, 2013 Bank of America told HERA that my application passed "Verification of Income" and that Bank of America submitted the loan to the investor, Wells Fargo, for a decision on the modification.
11. On July 18, HERA emailed Wells Fargo directly to find out more information about its review of my application. Joe Ohayon of Wells Fargo, which is apparently the master servicer for my loan, wrote to HERA by electronic email on July 24, 2013 that: "Our master servicing group shared that they are not currently reviewing a modification request from BofA for this loan. It does not appear that they are waiting on a reply from Wells Fargo."
12. After receiving this email, HERA asked Bank of America to explain why it had wrongly stated that its delay in reviewing my application was caused by Wells Fargo. Bank of America stated that it escalated the file for manual review and escalated the case to upper management.
13. In the meantime, Wells Fargo account manager Cathy Martin sent HERA another letter on July 24, 2013 stating that: "The servicer is responsible for all communication with the homeowner and all servicing activities, including the review for loss mitigation options. However, as we become aware of issues we immediately contact the servicer to encourage prompt resolution."
14. On August 12, 2013, Bank of America acknowledged that it identified errors and issues with the account and it re-submitted the file to Wells Fargo on August 5, 2013 for approval on the modification. Bank of America approved a HAMP Trial Plan on October 18, 2013, in contradiction with its previous denials. At this time I learned that Bank of America's previous denials of my HAMP application had been in error.
15. On November 12, 2013 Bank of America sent me a notice stating the servicing of my loan was being transferred on December 1, 2013 to Ocwen. Loan Servicing, LLC. As of December 10, 2013, Ocwen did not have any information to provide to me about my new account with them.
16. Without HERA's assistance, I would have lost the house in foreclosure because of Bank of America's inaccurate review and erroneous denials. I would have believed them when they told me that I didn't qualify for help, even though they were not telling me the truth, because I didn't have enough information to dispute it.

*Arminda Garcia*  
12.20.13

**Nick and Kimberly Cavanaugh; Property Address** [REDACTED]

**[REDACTED]; Loan No.** [REDACTED]

We, Nicholas and Kimberly Cavanaugh, declare:

1. We live with our daughter in a small home that Nicholas ("Nick") built in 2004.
2. We are small business owners. In 2010, due to the downturn in the economy our business suffered and we began to have trouble keeping up with all of our expenses.
3. We began working with Housing and Economic Rights Advocates in March 2011 to try to reduce the monthly payments on our Bank of America-serviced mortgage through a modification. We applied for assistance under the Home Affordable Modification Program ("HAMP") but in April 2011 Bank of America told us that we did not qualify because of debt to income affordability issues.
4. We fell behind on our mortgage payments in June 2011. Due to a decrease in our income we did not make our payments for the months of June, July, August and September of 2011.
5. In June 2011, Cynthia Singerman, our advocate from Housing and Economic Rights Advocates ("HERA"), submitted another loan modification application on our behalf to Bank of America.
6. In July 2011, the Bank of America representative assigned to our file called HERA, told them that I had been approved for a modification, and explained the terms of the modification we were to receive. However, neither we nor HERA ever received the modification documents. In fact, we learned that Bank of America never sent the modification documents.

7. Over the course of the next two months, Bank of America gave HERA numerous excuses as to why it had never sent or processed our modification. These excuses included that the paperwork was still with "Quality Control" department and Bank of America was making corrections on the documents.
8. Finally, at the end of August 2011, Bank of America told HERA that we actually did not qualify for a modification after all because the Investor on my loan did not permit any type of modification.

On September 8, 2011, HERA learned from Wells Fargo, the Master Servicer for my loan, that the investor on our loan did allow modifications and that Bank of America statements to the contrary were simply false.

9. For example Kimberly McCray of Wells Fargo, the master servicer, wrote Ms. Perez by electronic mail on July 18, 2011 that: "After review of the PSA documents we have determined you as servicer are delegated to approve loan modification without Master Servicer Approval" After HERA confronted Bank of America with the truth regarding its authority to modify our loan, Bank of America eventually approved us for a modification after all.
10. On January 18, 2012 we signed and returned the permanent modification that Bank of America offered us. The modification was to become effective in March 2012. However, Bank of America never honored it. Bank of America later explained that it would not honor the modification because it had made an error in drafting it.
11. More than six months later, on June 27, 2012, Bank of America sent us completely new modification paperwork. This modification had a higher principal



balance and higher monthly payment than the one that Bank of America sent us in January. Nevertheless, we signed and returned this agreement.

12. Bank of America did not return a countersigned copy of the final modification to us until January 2013, and as of that date it had still not applied the modification to my account and was still showing us as delinquent, even though we had been making the required monthly payments every month since January 2012. During this time, Bank of America continued to assure HERA that it would honor the modification and straighten out its errors on our account.
13. However, in April 2013, Bank of America sent us new modification paperwork yet again, along with a letter stating that we were four months behind on our mortgage payment. We did not understand how this could be the case, since we had made every payment Bank of America told us to make since January 2012.
14. In addition, our monthly mortgage statement was showing misapplied payments. For example, our current 2013 payment was being applied to payments from previous months, August and September 2012. Bank of America then told us that it had, in fact, incorrectly recorded the permanent modification date months previously, and that it now had to go back and correct our entire account and modification.
15. Bank of America did not correct its numerous errors on our account until June 2013, more than two years after we initially applied for help. During this time, Bank of America wrongly told the Credit Reporting Agencies that we weren't making payments on our loan.

16. Overall, Bank of America seemed to do everything that it could possibly do to avoid helping us with our mortgage, including telling us things that weren't true and making promises it did not keep.
17. Bank of America turned a straightforward process into a multi-year ordeal and caused an incredible amount of stress and anxiety in our daily lives. It feels like it is only despite Bank of America's efforts and with HERA's assistance that we were able to keep our home.
18. In November 2013, Bank of America sent us a notification stating that servicing of our loan was being transferred on December 1, 2013 to Nationstar.

*N. Cunningham*  
12/12/13

*K. Langley*  
12-12-13

I, Carlos Castillo, declare:

1. My wife Mary and I live at [REDACTED]. Mary and I purchased the home together in 1988 and have lived there ever since.

2. In November 2007, I refinanced the mortgage on our home at [REDACTED] with a new \$248,000 mortgage from Bank of America. We took out this loan in order to get a better interest rate on our loan.

3. I have worked for more than 30 years as a waiter in a San Francisco hotel. In 2011, I was injured on the job. As a result, I was not making as much money.

4. After I was injured, Mary and I tried to get help making our monthly payments more affordable by applying for a loan modification. Unfortunately, the company that we paid to help us get a more affordable modification took advantage of us. They took our money but did not help us. As a result, we fell several payments behind on our mortgage.

5. In July 2012, Mary and I contacted a non-profit organization called Housing and Economic Rights Advocates ("HERA") and HERA helped us apply to Bank of America for a loan modification.

6. In October 2012, Bank of America approved us for a "Trial Period Plan." Under the terms of this agreement, we were supposed to pay \$1,011.66 per month in November and December 2012 and January 2013, after that Bank of America would permanently modify our mortgage. We made all of these payments.

7. In December 2012, Bank of America sent me a loan modification agreement. The December 2012 Modification was supposed to start on February 1, 2013. I signed and returned the December 2012 Modification to Bank of America as the bank had instructed me to do.

8. In early February 2013, I received a letter from Bank of America telling me that Bank of America was transferring my loan to Nationstar on February 15, 2013. In March 2013, I received a letter from Nationstar telling me that it was now servicing

my loan. Neither of the letters mentioned the December 2012 Modification.

9. On March 13, 2013, I learned that our home had been sold in foreclosure. I learned about the sale when a woman I didn't know called me to tell me that we had three days to move out.

10. After we learned of the foreclosure, HERA called Bank of America and Nationstar repeatedly to find out what had happened. HERA was told that our home had been sold in error.

11. In late March 2013, Nationstar told HERA that it had cancelled our foreclosure.

12. In early April 2013, a Nationstar representative told me that Nationstar would honor the December 2012 modification and that the sale of my house had been cancelled. However, the representative also said that Nationstar would mail me a new modification agreement that I would have to sign and return.

13. On April 30, 2013 I received a new modification agreement from Nationstar ("April 2013 Modification"). The new modification was similar to the previous modification except for that it was effective beginning June 1, 2013 instead of February 1, 2013, had a slightly increased monthly principal and interest payment and added an additional \$1,580.43 to the loan balance. The letter included with the April 2013 Modification said that I needed to return the signed agreement by May 9, 2013.

14. I signed the agreement, had it notarized, and returned it to Nationstar in the provided prepaid overnight envelope on May 6, 2013.

15. Throughout this whole ordeal, I continued to receive automated calls from Nationstar at my home. Sometimes I would receive three or four of these calls per day. When I would answer the phone or return the messages, a Nationstar representative would tell me that I had to pay the entire loan amount or else I would lose my home. When I told them about my modification these representatives would tell me that they did not know anything about it.

16. On June 10, 2013 a new Nationstar representative emailed me and told me that Nationstar did receive my modification, but that it had forgotten to include an “escrow agreement” with the modification offer it sent me in April. The representative said that I needed to print out the escrow agreement, sign it, and return it to Nationstar. I immediately followed these instructions.

17. On June 28, 2013 and again on July 3, Nationstar confirmed to HERA that it had finalized the our modification and that we should no longer receive collection calls or be treated as delinquent.

18. On July 9, 2013 I came home to find a Notice of Trustee’s Sale posted to my front door. The notice said that Mary and I were in default on our loan and that our home would be sold again on August 2, 2013. Several days later, we received 12 separate identical copies of the notice of sale in the mail. I had to sign for six of these letters because they were sent by certified mail.

19. On July 11, I received a copy of the April 2013 Modification in the mail with Nationstar’s signature on it as well as my own.

20. On July 9, 2013, HERA contacted Nationstar to request that—as required by California law—it immediately cancel the foreclosure sale and record a rescission of the notice of sale and/or default.

21. Nationstar eventually told HERA that it would mail a notice of the rescission of default to the county recorders office. However, my next monthly statement from Nationstar showed that it charged me \$1,339.31 in “legal fees” for the wrongful foreclosure and for its correction of its errors.

22. HERA contacted Nationstar and demanded that they remove the “legal fees,” since the fees came from Nationstar trying to fix its own errors. Nationstar told HERA it wouldn’t charge me for the legal fees but they were listed on my next monthly statement as well. Nationstar finally removed the fees a couple of months later, after HERA sent a formal written request.

23. During this experience, Mary and I were under constant stress and panic from the worry of losing our home. I missed only a couple of months on my mortgage payments because of a financial setback. After that I did everything that Bank of America and Nationstar asked me to do and made every payment I was asked to make. Even so, these banks foreclosed on our family once and almost did it twice. This experience was heartbreaking. It is still hard for me to trust that the bank isn't going to take our home away from us again.

24. The information in this declaration is based on personal knowledge and on information provided to me by Noah Zinner and HERA based on their communications with Bank of America and Nationstar on our behalf.

Dated May 13,2014

  
By: CARLOS CASTILLO

To <u>Karen Huber</u>	From <u>Angelica Contreras</u>
Co./Dept.	Co.
Phone #	Phone #
Fax #	Fax #

We, Emilio and Maria A., declare:

1. We are the owners of a residential property located at [REDACTED]

[REDACTED] This property is our home. We have a home loan that is serviced by Nationstar. The loan used to be serviced by Bank of America, but servicing transferred in July 2013. We are giving this declaration because Nationstar made a number of serious errors after our account was transferred to them from Bank of America, including trying to charge us over \$1,000 for foreclosure activity that was prohibited by state law.

2. In July 2012, we fell behind on our mortgage payments due to circumstances beyond our control. We submitted a loan modification application to our servicer, Bank of America, and, after a long review process, we were approved for a Making Home Affordable (HAMP) modification with a trial plan starting in July 2013 and ending in September 2013. Under the plan, we were supposed to have a permanent loan modification starting in October 2013.

3. We made the first trial plan payment to Bank of America in June 2013 so that it would arrive by July. We then received notice that the loan was being transferred to Nationstar, so we sent our second (August) trial plan payment to Nationstar in late July 2013.

4. Nationstar returned our second trial plan payment with a letter stating that we had to pay the full amount needed to bring the account current -- \$21,708.41. We were very confused and upset because we had followed the instructions for the trial plan and we thought we were getting a modification that would bring the account current and lower our payment. We did not have over \$20,000 to pay to Nationstar.

5. On August 16, we found a Notice of Trustee's Sale posted on our front door. It said they were going to sell our house on September 13. We didn't understand what was going on, and we were very scared we would lose our house even though we did everything we were supposed to do to get the modification.

6. We tried contacting Nationstar and sent them a copy of the HAMP offer from Bank of America right away, but all they did was tell us to call back again two weeks before the sale date.

7. We contacted Housing and Economic Rights Advocates (HERA), a non-profit organization in Oakland, California, for help. After attorneys at HERA contacted Nationstar about our situation, Nationstar agreed to cancel the September 13 foreclosure sale and agreed to honor the HAMP modification offer. At that point, Nationstar started accepting our remaining trial plan payments.

8. Because we were in a HAMP trial plan, Nationstar was not supposed to move forward with the foreclosure process. We requested that Nationstar remove any charges related to the wrongful Notice of Trustee's Sale from our account. Nationstar told the attorneys at HERA that those charges would be removed.

9. At the end of October 2013, Nationstar sent us a permanent loan modification agreement to sign. We showed it to the attorneys at HERA, and they reviewed it and asked Nationstar to confirm that the new modified balance didn't include the foreclosure charges that were supposed to be removed from our account.

10. About two weeks later, Nationstar sent an email to HERA saying that they had included the foreclosure charges in the new balance in the modification agreement they sent us. They said they would remove the charges and re-draft the modification agreement. They told us to continue making trial plan payments while we waited for the corrected agreement.

11. After another two weeks, on November 29, 2013, someone from Nationstar called us and told us that our modification is void and that we need to apply all over again. We didn't understand what was going on. HERA confirmed that this information was wrong, but it was very upsetting to be told we had to start all over again when we had done everything we were supposed to do.

12. While we were waiting for the corrected modification agreement, we sent in another trial plan payment to Nationstar in December 2013. On Monday, December 10, we received a



letter from Nationstar rejecting our payment and telling us we owed them \$26,374.05. Again, we didn't understand what was going on.

13. HERA contacted Nationstar about the rejected payment. Nationstar said the foreclosure charges were still on our account, but that they were working on it. They said we should resend the payment for December and keep waiting for the corrected modification agreement. We followed their instructions.

14. In late December, Nationstar told us we should just sign the original modification documents and that they would credit our account for the foreclosure charges. We sent back the paperwork right away. Finally, in January 2014, we received the permanent modification agreement back with Nationstar's signature. This was three months after the modification was supposed to go into effect (October 2013).

15. We dealt with the problems with our loan for well over a year. A lot of that time was spent dealing with Nationstar's mistakes after the servicing transfer. In addition to scheduling a foreclosure sale and and charging us for things they weren't supposed to do, they kept telling us one thing and then doing another, which was very stressful and confusing.

15. The information in this declaration is based on personal knowledge and on information provided to me by Karen Huber and Lisa Sitkin at Housing and Economic Rights Advocates based on their communications with Nationstar on our behalf.

May 14, 2014

  
Maria Contreras

  
Emilio Contreras

I, Teresa Rowland, declare:

1. I am the owner of property at [REDACTED] I am the sole mortgagor of the first lien mortgage on the property, which was formerly serviced as loan number [REDACTED] by JPMorgan Chase, and since August 1, 2013 has been serviced as loan number [REDACTED] by Select Portfolio Servicing, Inc. I have personal knowledge of the matters set forth herein, and if called to testify, would and could competently testify to them. This Complaint describes my ongoing problems with **converting to a permanent loan modification, getting accurate and timely information about my loan from my Single Point of Contact, and with the transfer of servicing of my loan.**

2. I first requested assistance with my home mortgage loan in 2008, after I had suffered financial hardship. After years of efforts to get a modification, I was finally offered a permanent loan modification agreement under the federal Home Affordable Loan Modification (“HAMP”) Program by JPMorgan Chase Bank, N.A. (“Chase”) in October, 2011.

3. Since the effective date of that agreement, in December, 2011, I have timely made every payment due. However, Chase has failed to make the modification permanent, sending me *four* separate modification agreements over the past two years, and continuing to treat the loan as though it were in default.

4. This saga has been endless. Chase summarized its errors this way in an August 6, 2013 letter to me, which responded to a written complaint I had sent *eight* months earlier:

**“Our records show that we initially approved your loan for a Home Affordable Modification Program (HAMP) trial period on February 16, 2011, with three monthly payments of \$2,813.17 each due on April 1, 2011, May 1, 2011, and June 1, 2011. You successfully completed the trial period plan, and your file was submitted to underwriting to be reviewed for a permanent loan modification in June 2011.**

**“A permanent HAMP modification was approved on August 8, 2011, which you signed and returned our office, but the documents could not be approved due to a**

**calculation error in the escrow portion of the documents. The file was reworked, and new documents were sent to you on October 18, 2011, which you signed and returned on October 27, 2011. However, a review of the documents again showed that we had inadvertently calculated your escrow incorrectly, and the modification could not be finalized.**

**“A new set of HAMP documents were generated, and these updated documents were sent to you on January 19, 2012, and again on January 24, 2012. You signed the documents and returned them to our office on February 8, 2012;- however the loan modification could again not be executed due to errors on the documents. Our notes stated that discrepancies were found in calculations regarding the escrow shortage, the unpaid principal balance and the current due date listed in the documents.**

**“The file remained in remediation throughout 2012 as we attempted to correct the errors in the documents, and the calculation errors in the documents were not corrected until a new copy of the documents was mailed to you May 10, 2013.**

**“Upon receipt of the documents, you disputed the terms being offered to you, and our review of the documents confirmed that we had not offered you the correct terms. We sent the documents again for a remediation review to correct the errors, and the review was completed on July 10, 2013, at which time a corrected version of the final modification documents were sent to you.”**

A true and correct copy of Chase’s August 6, 2013 letter is attached hereto as Exhibit 1.

5. Servicing of this loan was transferred to SPS on August 1, 2013. Not surprisingly, SPS does not have the terms of its loan modification in its system, and my loan continues to be treated as though it is in default two full months after the transfer.

6. This declaration sets out Chase’s continual errors in processing my loan modification, and lists some – but not all – of the many instances over the past two years when my family was harassed and abused with unfair debt collection and the looming specter of foreclosure, even though we were current on our modified loan.

7. In 2006, I bought my family’s home using a \$648,000 negatively amortizing mortgage. When we fell behind on our payments, sought modification.

8. We entered into a trial HAMP modification in April, 2011. We timely made the requested three trial period payments.

9. **In October, 2011, we received a Home Affordable Modification Agreement.** The loan modification was to be effective as of December 1, 2011. The modified loan would have total principal balance of \$819,645.76, of which \$151,245.76 would not bear interest. In addition, \$120,445.76 of the deferred principal would be eligible for forgiveness over the course of three years. The total interest bearing principal would be \$668,400.00. The interest rate for the first five years was 2%, with a principal and interest payment of \$2,024.09 and an estimated payment, including escrow, of \$2,813.17. The interest rate would gradually step up to 4% in 2017. Because the loan was amortized over 40 years, but would have a term of only 34 years, it had a balloon payment of \$181,648.14. A true and correct copy of the December 2011 HAMP modification agreement is attached hereto as Exhibit 2.

10. **I signed and returned the first HAMP Modification,** and timely made the first payment of \$2,813.17 for December, 2011 and the second payment for January, 2012.

11. Nonetheless, **in January, 2012, we were sent a second HAMP loan modification agreement to sign.** I called our assigned Chase representative, Lindsey Bull, who told me that there was a very small error in the first set of documents. She told me that the modification was complete, and I should continue making payments.

12. **In fact, the new agreement was less favorable.** It added about \$4,000 to the non-interest bearing loan balance, although the interest bearing principal amount was the same. The monthly payment amounts were the same for the first seven years, but starting in 2018, the loan would become fixed at 4.75% rather than 4% - a difference of about \$200 per month for 26 years. A true and correct copy of the second HAMP Modification is attached as Exhibit 3.

13. However, we were so exhausted by the process and pleased to have the modification behind us that we went ahead and signed and returned the new agreement.

14. **We have continued to make timely payments of \$2817.13 since December, 2011. We have never missed a monthly payment of that amount.**

15. Ms. Bull, my single point of contact (“SPOC”) told me it could take up to three or four months to finalize the modification, and that we would receive a completed, recorded copy then.

16. Over the next months, I received **conflicting information about my loan modification.** I repeatedly received collection calls from agents whose records showed I was in arrears, who said they could not “see” a loan modification, and statements requesting higher payments. I even had collection agents come to my door and tell me to call my lender. My SPOC continued to tell to disregard these communications, keep making payments at the modified amount, and that the modification was in place and in the process of being finalized. I called my SPOC every several weeks beginning in summer, 2012, and each time my SPOC would tell me the same thing.

17. **Despite all these assurances, Chase continued to treat the loan as though it was in default, nearly a year after the first modification had issued. I received a certified letter from Chase dated September 7, 2012, which stated that I was in default and was \$139,627.31 past due on my mortgage. I got a collections call on November 30, 2012 in which the Chase caller accused me of not having made a payment for 36 months. When I explained that I had been granted a modification a year ago, he argued with me, saying he could see no modification in the system, and said that “If we [Chase] don’t sign the modification documents, then the loan modification doesn’t exist.”** Some letters said I was

“at risk of losing your home.” These and other collection communications, coupled with the uncertainty, caused me and my family immense distress and anxiety.

18. I wrote letter after letter to Chase, asking that it finalize my loan modification, and describing the profound stress and anxiety the collection efforts were causing me, including letters on September 15, 2012, December 3, 2012, and December 17, 2012.

19. Despite Chase’s ongoing assurances, a December 31, 2012 letter from Chase stated **my property might be referred to foreclosure, and noting that according to Chase’s records, “You have stated that you are not interested in pursuing an available loan modification or you have not accepted our loan modification offer.”** (The letter also stated that I was \$141,589.58 overdue).

20. I continued to write letters, which I both faxed and emailed, begging for finalized loan documents and an end to the collection activity.

21. In January, Chase changed my SPOC to Wendy Ruiz, then, less than a week later, I received a call from John Baylog in the Chase Executive Offices, who was responding to my most recent letter to Chase. He said that he was calling me personally because he was stunned that this process has been going on for so long. He added that he had spent several hours, prior to calling me, trying to dissect what went wrong with this. He said, among other things, that the loan was “with escrow” and was “awaiting management approval.” I was shocked, as I had been told for well over a year that the loan modification had been approved and in place.

22. On February 12, 2013, Mr. Baylog told me that my loan had gone through “remediation” and “stopped.” He could not understand why the documents had not printed.

**On February 26, 2013, Mr. Baylog told me he was “mystified” by the situation, and could not tell why the documents had not been issued in August of 2012.** By March 4, 2013, Mr. Baylog said that the documents would be ready in 5-7 days.

23. Just a few days later, however, I received a letter stating that my loan modification and escrow account had been terminated. I wrote Chase on March 14, 2013, describing the physical as well as emotional toll that the uncertainty and fear were taking on me and my family.

24. I tried repeatedly to call Mr. Baylog over the next week but could not reach him. I eventually spoke to him on March 20, 2013, when he told me that he believed the “modification” status had been removed from my loan at one point. He had identified and fixed problems with the “template,” and believed the documents would “print soon.”

25. Over the next weeks, my loan modification apparently bounced back and forth, without explanation, between a “remediation team,” underwriting, and closing. At one point in April, a new SPOC told me there had been a request for a new modification; Mr. Baylog told me that the file had gone back to underwriting. So far as he could tell, the file was “so old” that the modification had to be reworked.

26. **On May 13, 2013, I received new loan modification documents. This third permanent HAMP had completely different – and much worse – terms.** The modification was to take effect on July 1, 2013 – giving me no credit for nearly two years of timely payment. The unpaid principal balance would be \$823,792.17. Although \$142,400 of that amount would be non-interest bearing, **the agreement made no mention of principal forgiveness at all.** The interest rate would begin at 2%, and step up to 4.75 in 2020. **Although the maturity date**

**remained the same, the balloon payment had increased by over \$170,000 to \$351,573.42.** A true and correct copy of the third HAMP Modification is attached as Exhibit 4.

27. Both my husband and I were flabbergasted and incredibly distressed. I felt I had been completely misled and deceived.- The documents that were supposed to be the “fix” for ongoing problems did not mirror the original modification, nor did they account for my 18 months of payments at the modified rate.

28. **When I was able to talk to Mr. Baylog on May 15, 2012<sup>3</sup>, he said again that he was not sure what was going on.** After trading calls with various Chase personnel over the next few days, I spoke to my reassigned customer care specialist, Kristie Kershaw. She had no information to share; all she could say was that the remediation team had the documents.

29. On June 5, 2013, Mr. Baylog told me that the underwriting department “redid the figures.” He said Chase was waiving fees, but could not tell me what the fees were. He acknowledged that the third set of modification documents mistakenly failed to include principal reduction. Throughout June, I received messages from Mr. Baylog and Ms. Kershaw, without content, saying they were simply “following up.” I continued to write Chase every several weeks to request that Chase complete the modification I had been paying on for over a year and a half. I am happy to provide every one of these communications if necessary.

30. **Chase sent me a fourth set of modification documents dated July 10, 2013. This modification more or less mirrored the original loan modification terms. The agreement changed the interest rate retroactively to December 1, 2011. It deferred \$145,728.69 of the unpaid principal balance, and made \$114,928.69 of that balance eligible for forgiveness. The balloon payment was back to \$181,648.14.** I signed and returned the



agreement on or about July 22, 2013. A true and correct copy of the signed Agreement is attached as Exhibit 5.

31. Just when I thought the incredible saga was behind me, I learned in late July, 2013 that **servicing of our loan was being transferred from Chase to Select Portfolio Servicing starting August 1, 2013.**

32. Apparently, Chase either failed to finalize the loan modification, or to give SPS information about the modification. Correspondence we received from SPS made no mention of the modification at all – as if it had never existed. For instance, I received letters dated August 20, 2013, which informed me about the rate change on my negative amortization loan. A statement listed \$2,585.09 in “FC Costs” charged to my account.

33. On August 26, 2013, I sent a written complaint to SPS, demanding that it honor the modification, strip the unlawful fees, and ensure we receive HAMP incentive credits. A true and correct copy of the letter, without attachments, is attached as Exhibit 6.


34. Although SPS acknowledged receipt of the letter, it apparently made no difference. We received yet another letter dated September 17, 2013, discussing a rate change under my old loan terms.

35. Although SPS has indicated, by letter and by telephone to my legal advocate, that it intends to honor the “the U.S. Treasury’s Home Affordable Modification Program (HAMP) modification that you initiated with JPMorgan Chase,” the **problems continue**. On October 10, 2013, a representative from SPS’s “ombudsman’s” office indicated that **although the loan modification had been finalized, SPS’s records showed that my account was paid only through February, 2012.**

36. At this point, I have no confidence whatsoever that SPS will be able to implement the loan modification correctly. We have made nearly two years of timely payments. We have not received incentive credits -- the two years' worth of principal reduction --that we have already earned under the HAMP program, since our "anniversary" date is in April of 2012 and 2013.

37. I cannot fully describe how this saga has affected our entire family. I have suffered not only emotional distress, but physical effects of stress. This process has turned our lives upside down. I just want it to stop, and want the loan modification and chance to rebuild my life that I should have had starting in December, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 15th day of October, 2013, in Fremont, CA.

By   
TERESA ROWLAND

Chase (OH4-7120)  
3415 Vision Drive  
Columbus, OH 43219-6009



August 6, 2013

Teresa Rowland

Freemont, CA 94536-2851

**We have completed our research on your request.**

Borrower Name: Teresa Rowland  
Account: [REDACTED]  
Reference Number: [REDACTED]  
Property Address: [REDACTED]  
Freemont, CA 94536-2851

Dear Teresa Rowland:

We are writing in response to your correspondence dated January 5, 2013, addressed to Chase and received in our office on January 14, 2013, regarding payment assistance for the mortgage loan referenced above.

Our records show that we initially approved your loan for a Home Affordable Modification Program (HAMP) trial period plan on February 16, 2011, with three monthly payments of \$2,813.17 each due on April 1, 2011, May 1, 2011, and June 1, 2011. You successfully completed the trial period plan, and your file was submitted to underwriting to be reviewed for a permanent loan modification in June 2011.

A permanent HAMP modification was approved on August 8, 2011, which you signed and returned to our office, but the documents could not be approved due to a calculation error in the escrow portion of the documents. The file was reworked, and new documents were sent to you on October 18, 2011, which you signed and returned on October 27, 2011. However, a review of the documents again showed that we had inadvertently calculated your escrow incorrectly, and the modification could not be finalized.

A new set of HAMP documents were generated, and these updated documents were sent to you on January 19, 2012, and again on January 24, 2012. You signed the documents and returned them to our office on February 8, 2012; however the loan modification could again not be executed due to errors on the documents. Our notes stated that discrepancies were found in calculations regarding the escrow shortage, the unpaid principal balance and the current due date listed in the documents.

The file remained in remediation throughout 2012 as we attempted to correct the errors in the documents, and the calculation errors in the documents were not corrected until a new copy of the documents was mailed to you May 10, 2013.

Upon receipt of the documents, you disputed the terms being offered to you, and our review of the documents confirmed that we had not offered you the correct terms. We sent the documents again for a remediation review to correct the errors, and the review was completed on July 10, 2013, at which time a corrected version of the HAMP final modification documents were sent to you.

The terms of this modification include a Principal Reduction Alternative, which states that \$38,309.56 of your unpaid principal balance will be forgiven year on the anniversary of your first trial period payment during the first three years of your modification. The modification also backdates your loan to show that it was modified retro-active to December 1, 2011, and that all payments have been made correctly during that time period.

In accordance with the terms of your modification, this means that your loan shows you already made the first year of payments as agreed, which resulted in the forgiveness of \$38,309.56, with an effective date of December 1, 2012. Additionally, your loan will be eligible for another forgiveness of \$38,309.56 on December 1, 2013, if all payments are made successfully from the date of your modification through December 1, 2013.

Your modification also accrues a monthly benefit equal to \$83.33 for the first five years of the modification as payments are successfully made. This will also be backdated retroactive to the modified date of December 1, 2011, once the new modification has been applied to your account.

More details regarding the specific terms of your modification can be found on the enclosed copy of your loan modification. You signed and returned these documents on July 29, 2013. However, because the servicing of your loan was being transferred to a new servicer on August 1, 2013, we could not complete the system maintenance prior to the transfer.

We have confirmed with your new servicer, Select Portfolio Servicing, that the terms of the modification will be honored, and that the modification will be applied to the account by the new servicer. For questions regarding the servicing transfer, you may contact the new servicer at:

**Escalations:**

Select Portfolio Servicing  
3815 South West Temple  
Salt Lake City, UT 84115-44121

**General Correspondence**

Select Portfolio Servicing  
P.O. Box 65250  
Salt Lake City, UT 84165-025

**Loan Payment:**

Select Portfolio Servicing, Inc.  
Attn: Remittance Processing  
P.O. Box 65450  
Salt Lake City, UT 84165-045

**Telephone contact:**

Phone Number: 800-258-8602  
Fax: 801-270-7856

To ensure that the terms of the modification are correctly honored by the new servicer, Executive Office agent John A. Baylog will continue to work with the new servicer on your behalf and remain your point of contact with Chase. John Baylog can be reached at (800) 258-8602, extension [REDACTED] or the alternative number of (801) 270-7856, extension [REDACTED].

Additionally, we asked the major credit reporting agencies (Equifax, Experian, and TransUnion) to remove all references to past due payments for the months of August 2011 through July 2013. You may use this letter as verification until the agencies update your credit records.

We sincerely regret the length of time it took to generate correct modification documents. We hope the actions we have taken to correct your loan prior to the servicing transfer will demonstrate our commitment to quality customer service.

Please contact your new servicer at the number listed above with any questions you have. You may also contact us at the telephone number listed below.

Sincerely,

Chase  
888-310-7995  
800-582-0542 TDD / Text Telephone  
[www.chase.com](http://www.chase.com)

Enclosure

**We are a debt collector.**

**If you are represented by an attorney, please refer this letter to your attorney and provide us with the attorney's name, address, and telephone number.**

**To the extent your original obligation was discharged, or is subject to an automatic stay of bankruptcy under Title 11 of the United States Code, this notice is for compliance and/or informational purposes only and does not constitute an attempt to collect a debt or to impose personal liability for such obligation.**

EX077

### DECLARATION OF MOISES M. VALDEZ

I, Moises M. Valdez, declare:

1. My wife, Sandra Valdez, and I are the owners of the property at [REDACTED] Rd. in San Diego, California. We are the mortgagors of the first lien mortgage on the property, which was formerly serviced as loan number [REDACTED] by IndyMac Mortgage Services ("IndyMac"), a division of OneWest Bank, FSB, and since September 1, 2013 has been serviced as loan number [REDACTED] by Ocwen Loan Servicing, LLC ("Ocwen"). I have personal knowledge of the matters set forth herein, and if called to testify, would and could competently testify to them. This Complaint describes my ongoing problems with **the transfer of servicing of my loan, converting to a permanent loan modification, receiving monthly mortgage statements, and receiving customer service assistance in comprehensible Spanish.**

2. My wife and I bought the property in 1994 for approximately \$95,000. Our original mortgage was with Bank of America. In about 2004, we refinanced the mortgage with Comerica for approximately \$148,000. In 2009, we refinanced the mortgage with IndyMac. The terms of this loan included a fixed interest rate of 5.625%, a term of 15 years, and a monthly payment of approximately \$1,391, including escrowed amounts for property taxes and homeowners insurance.

3. I first requested assistance with my home mortgage loan in 2013, after I had suffered financial hardship due to a severe reduction in my income and was unable to pay my monthly mortgage payments. In or around June 2013, IndyMac recorded a Notice of Default on my property, the first step in the foreclosure process. With the assistance of my H.U.D. certified housing counsel from Neighborhood House Association, Maru Cham, I was able to enter into a Trial Period Plan ("TPP") under the Fannie Mae Alternative Modification program to temporarily lower my monthly mortgage payments until I could be accepted into a permanent

loan modification. IndyMac Mortgage services notified me in a letter dated June 10, 2013 that I was approved for the TPP and by accepting the offer I would avoid additional foreclosure activities. Under the TPP, I was to pay \$819.84 in July, August, and September 2013. The letter stated that after all TPP payments were timely made and I submitted the required documentation, my loan could be permanently modified.

4. I made all of the TPP payments to IndyMac in the amount of \$819.84 on time for the July, August, and September 2013 payments.

5. In late August 2013, I received a letter from IndyMac and Ocwen notifying me that IndyMac was transferring the servicing of my mortgage loan to Ocwen effective September 1, 2013.

6. In early September 2013, I received a letter from IndyMac dated August 30, 2013 stating that I was eligible for a permanent loan modification and could accept the offer to permanently modify my loan by signing and returning two copies of the enclosed Modification Agreement. I signed and returned the Agreement to IndyMac in September 2013. However, when I spoke to an IndyMac representative later that month, I was told to send it to Ocwen because it was now my mortgage servicer.

7. I received a letter from Ocwen dated September 5, 2013 from Tonica Williams stating that she would be my "Relationship Manager." I spoke with Ms. Williams several times about my TPP and Modification Agreement and she told me that IndyMac would provide Ocwen with my documents. I faxed a copy of my signed Modification Agreement to Ms. Williams at Ocwen around October 9, 2013.

8. Ocwen did not send me any monthly mortgage statements from September 2013 to March 2014. When I called Ocwen to ask why I do not receive statements, the customer

service person I spoke with said that it is because my account is in foreclosure. Without my monthly statements, I could not see what Ocwen states I owe in unpaid principal, escrow amounts, monthly mortgage, and late and/or default fees and charges, and I do not know how Ocwen is applying my monthly payments.

9. Ocwen also refuses to allow me to pay my mortgage directly from my bank account through the Automatic Clearing House (“ACH”) system. I sent Ocwen a request to pay directly from my bank through that system in October 2013. However, in a letter dated October 24, 2013, Ocwen stated that it cannot establish an ACH payment on my account at this time because my loan modification was still in process. The letter instructed me to send another request once the permanent modification is completed.

10. Because I do not receive a statement and I cannot pay through ACH, I have been required to pay by phone and incur a \$12 fee each time. I paid by telephone for my October, November, and December 2013 monthly mortgage payments, as well as my January 2014 payment.

11. The same October 24, 2013 letter from Ocwen acknowledged that my trial loan modification was completed while my mortgage was serviced by IndyMac and that my account had not yet been updated to reflect the actual modification status on the account. I called my relationship manager Ms. Williams several times and all she could tell me was that Ocwen still had not received the paperwork from IndyMac to update the account.

12. The same October 24, 2013 letter from Ocwen stated that my account was past due for the February through October 2013 payments and that Ocwen’s attorney or trustee, the Wolf Law Firm, is handling a foreclosure on the house. Ocwen told me to contact the Wolf Law Firm to request reinstatement or a payoff amount.



13. Toward the end of January 2014, I called Ocwen to make my monthly payment for February 2014. This time Ocwen refused to accept my payment. When I called Ocwen, the customer service person I spoke with told me that I had to speak directly with the Wolf Law Firm to reinstate my account. When I called the Wolf Law Firm, the person I spoke with told me that I needed to make a payment of about \$17,000 in order to reinstate my account.

14. In the beginning of February 2014 I received a letter from Ocwen dated January 29, 2014 that enclosed a check for me in the amount of \$4,388.84 and stated that these funds were unable to be applied to my account because they are for less than the amount due. The letter asked me to contact the Wolf Law Firm to find out how much is due on my account.

15. Toward the end of March 2014, I received a Mortgage Account Statement from Ocwen dated March 17, 2014. This was the first mortgage statement that Ocwen sent me. According to this mortgage statement, I owe a regular monthly mortgage payment of \$1,391.03 and a total amount due of \$22,352.25. This mortgage statement continues to show the terms of my mortgage with IndyMac prior to the TPP and loan modification offer.

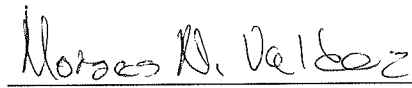
16. I have faced several language barriers in trying to communicate with Ocwen. I am a native Spanish speaker from Mexico and I have very limited English proficiency. The letters Ocwen sends are only in English. When I call Ocwen and press the number for a Spanish-speaking agent I am told that they cannot speak with me and I must speak with my Relationship Manager's team. When I speak with my Relationship Manager (formerly Ms. Williams and now Tina Kappmeyer) or her team, there is often not an interpreter available to interpret for me, so I need to try to talk in English, which is difficult when we must use banking and lending terms necessary for me to understand the status of my account. One time I was left hanging on the phone for a half-hour or so while Ocwen tried to find an interpreter. On the two or so occasions

when Ocwen was able to offer an interpreter, I was not able to understand too well either because the interpreter spoke a very different dialect of Spanish, or did not know Spanish well enough to communicate with me.

17. I am currently working with my HUD-certified housing counselor, Maru N. Cham, to try to obtain a new loan modification with Ocwen. I am hopeful that I will receive this loan modification. However, I am still very frustrated that Ocwen did not honor the TPP and loan modification offer that IndyMac provided, which would have allowed me to already be reinstated on my account without all of the late and default-related fees and charges that have been added due to Ocwen considering my account to be in default and the foreclosure activity by the Wolf Law Firm.

18. I have experienced a great amount of emotional distress in trying to deal with Ocwen after servicing transferred to it last year. I have spent hours dealing with them on the phone, seeking and obtaining housing counseling and legal assistance to deal with them, and trying to make my payments and obtain a loan modification. This has caused both me and my family substantial stress and frustration.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 7<sup>APRIL</sup>th day of ~~March~~ 2014, in San Diego, California.

  
\_\_\_\_\_  
Moises M. Valdez

**INTERPRETER CERTIFICATION**

I, Maru N. Cham, certify that I am fluent in Spanish and fluent in English, and that I read the contents of this Declaration to Moises M. Valdez in Spanish on this 7<sup>APRIL</sup>th day of ~~March~~ 2014, in San Diego, California.

A handwritten signature in black ink, appearing to read 'Maru N. Cham', written over a horizontal line.

Maru N. Cham

I, Ian Kelly, declare:

1. I am the son of Gregory Kelly. My father passed away in July 2013 after a long illness. Before his death from cancer, he placed his home, located at [REDACTED] Oakland, CA 94619, in a trust called the Gregory B. Kelly Living Trust. He made me and my mother, Ka Rynn Kelly, the successor trustees of the trust, and me the beneficiary so that I would own the house after his death. My parents divorced several years ago, but after my father got sick, my mother moved back in with us to care for him, and she continues to live with me in the house.

2. My father had a loan on our house serviced by Chase. When he became sick, he fell behind on his payments. He asked Chase for assistance, and before his death, Chase offered him a workout plan. We made 4 payments on the plan, but when the payments increased, we were unable to afford them. Chase pursued a foreclosure and set a sale date in December 2013.

3. As detailed below, we have been trying to get reviewed for a loan modification with simultaneous assumption ever since November 2013. As of the date of this declaration, Chase still has not even completed the initial stage of the review process. We have been facing foreclosure month after month as Chase continues to delay the review process, which has caused us a lot of stress and anxiety because we don't know if we are going to be kicked out of our home.

4. We consulted with Housing and Economic Rights Advocates (HERA), and learned that we have a good chance of qualifying for a loan modification based on our current household income and other factors.

5. With HERA's help, we submitted a loan modification application to Chase on November 21, 2013. The application included my father's death certificate, a copy of the trust document and deed transferring the house into the trust, and all required forms and income documentation. It also included an authorization permitting Chase to discuss the account with HERA.

6. After we submitted the loan modification application to Chase, we received several letters and calls telling us we had to send in a new third party authorization. We sent in the new authorizations at least twice, and HERA prepared and sent Chase another third-party authorization in early December as well.

7. Over the next several weeks, when we or our representatives at HERA spoke with Chase to confirm that the authorization was received and find out the status of the application, we could never reach the assigned case specialist. Other representatives kept telling us that they did not have a valid authorization and could not talk to us or to HERA about the account. Some representatives said the authorization had to be resent, and others said it should have been escalated to their legal department for review already, but no one could explain the ongoing delays or tell us if we had to provide something additional in order to move the review process forward.

8. On January 9, 2014, a Chase representative advised that the account notes showed several requests to review the authorization letter, but no actual review. He said he would send another internal request for review. After that call, HERA escalated the matter at Chase.

9. Finally, on January 21– two months after we submitted the application package – the assigned case specialist returned a call from HERA and advised that the authorization had been validated and that the application had been escalated on January 20 for an initial review to make sure we were eligible to assume the loan if we were approved for a loan modification. She said the process usually took about 5 business days and that she would be following up with the relevant department to make sure the review was completed. She said that we should not submit any updated application materials until after we received a letter confirming that we had been found eligible.

10. We worked with HERA to update all of our application forms and materials so we would be ready to submit them as soon as we got our eligibility confirmation.

11. While we were waiting for Chase to complete the eligibility review, we received a new Notice of Trustee's sale setting a sale date for February 13.

12. On January 31, when Lisa Sitkin at HERA called the assigned case specialist, the specialist said the file was still pending review. She said she could not give an estimate for when it would be completed.

13. Another Chase representative told Ms. Sitkin that Chase was waiting for updated income documents from us. Since the assigned specialist had said we had to wait for the eligibility review to submit updated information, we were confused.

14. Throughout January and early February, we kept receiving confusing letters and forms from Chase, but we never received a letter about the eligibility determination.

15. According to online foreclosure information, the foreclosure sale on our home was rescheduled to March 13. After all of the delays and inconsistent information from Chase, I got scared that Chase would foreclose and evict us, so I consulted a realtor about arranging for a short sale in case the loan modification didn't work out. The realtor sent Chase some documents about the short sale on February 12. He also spoke to the assigned specialist who told him that Chase didn't have any income documents from us. That was not true; we sent in complete financial information in November 2013.

16. When Ms. Sitkin from HERA called Chase for an update on February 19, she was told that after they received the short sale documents from the realtor, they canceled the modification review process and switched us over to a different department. I did not know that initiating the short sale process would interfere with the loan modification review. We want to keep our home. We only started the short sale process because Chase was taking so long and making so many mistakes that we thought they would just sell the house and evict us.

17. On February 25 and again on February 28, we advised Chase in writing that we did not want to proceed with the short sale process and that we wanted them to reopen the loan modification review process.

18. On February 28, we received a letter from Chase stating that they could not approve a short sale because there was a sale date scheduled within 60 days.

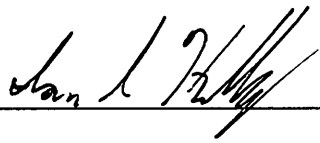
19. On March 3, we received a letter from Chase stating that the sale date had been rescheduled to April 14.

20. On March 5, the assigned case specialist advised Ms. Sitkin of HERA that we would have to submit a new application in order to start the whole process over again. She said that after we submit the new application, Chase will review us for eligibility for assumption (the review that was supposed to happen back in late January) and then we will have to submit another application package to be reviewed for the loan modification. Ms. Sitkin requested that Chase just reopen our prior application and move forward with the eligibility review, but the case specialist said they wouldn't do that because that review had already been closed.

21. We will be submitting the new application shortly. It has now been over three months since we submitted our loan modification application with all required information, and we are back at square one. We are facing another sale date in a few weeks, and we don't know if or when Chase will actually review our application and give us a decision.

22. The information in this declaration is based on my personal knowledge and on information provided to me by my mother, Ka Rynn Kelly, and by Karen Huber and Lisa at HERA based on their communications with Chase on my behalf.

Dated: March 7, 2014

Signed:   
Ian Kelly

I, Sheetal Sharma, declare:

1. Together with my sister, Varsha Sharma, and my mother, Snehlata Sharma, I am the owner of property at [REDACTED] I have lived in the property and it has been my primary residence from May, 2005 to the present, although I am temporarily staying in Northern California to care for my ailing mother. **This declaration describes EMC's, and later Chase's, refusal to communicate with me and my family after the death of my father, the borrower on the loan encumbering the home.**

2. My father, Gaja Nand Sharma, purchased the property in April, 2005 with a \$650,000 loan from Greenpoint Mortgage. The loan was serviced by EMC as Loan No. [REDACTED]

3. For estate planning purposes, in 2004, my father established a living trust naming Varsha Sharma and me as trustees. He also signed a durable power of attorney, giving me and my sister power of attorney for all real property and financial matters.

4. In 2009, my father signed a grant deed transferring title to the Property to me, Varsha Sharma, and our mother.

5. Gaja Sharma became extremely ill in the end of 2009. By May, 2010, he was hospitalized.

6. On June 1, 2010, I contacted EMC, and informed EMC that my father was extremely ill and we needed to get information about the account and arrange for payment. EMC demanded that I provide a power of attorney. I faxed the Power of Attorney to EMC, and called afterward to ensure it had been received.

7. I called multiple times after that; I was unable to get information for most of the calls. I spoke to several representatives and submitted documents several times, but they would



not release information to me. Finally, one EMC representative told me that the last few payments had been in the amount of \$1,927.84. We submitted a payment in that amount on June 8, 2010.

8. My father passed away on June 21, 2010. At that time, I informed EMC that he had died. My sister Varsha and I repeatedly sent EMC our father's death certificate, the deed to us, and the trust documents, which transferred ownership of the property to us and our mother.

9. Nonetheless, EMC refused to communicate with us about the loan.

10. On July 16, 2010, we again called EMC and faxed my father's death certificate to EMC. We also made another payment in the amount of \$1,927.84.

11. After that payment, EMC representatives shut down all substantive communication with us. On August 5, 2010, we got a letter addressed to the "Estate of Gaja Sharma" that the Power of Attorney was "not approved," and demanding documents showing that we were court approved executors of the estate. However, the property had passed to us through the living trust, not through probate. EMC ignored the trust documents we had sent.

12. Because EMC was refusing to talk to us, we withheld payment, because EMC appeared to be taking our payments yet proceeding with foreclosure. Instead, we decided to deposit the money to a bank account until the problems were cleared up.

13. A Notice of Default was recorded against the property, which we received on or about August 19, 2010.

14. I tried to contact EMC repeatedly after we received the Notice of Default by letter and by telephone. Even EMC supervisors refused to communicate with me unless I provided court documents appointing me executor of my father's estate.

15. We faxed proof of transfer through the trust to EMC again on August 19, 2010, notified EMC that there was no estate, and requested the opportunity to avoid foreclosure. My sister requested both a payment history and an assumption package.

16. On or about August 24, 2010, Varsha spoke to a Mr. Johnson, who rudely informed her that she needed "proof from a court" appointing me executor of the estate to be able to communicate with anyone about the loan.

17. I made one last series of calls to EMC on or about September 9, 2010. At that point I found out that EMC had, in fact, approved an authorization for me on August 25, 2010 – the day after I had been told that I needed to be appointed Executor by a court to find out information about the loan.

18. Only after that, by mid-September, 2010, did I learn what had gone on with my father's loan. He had entered into a forbearance agreement for January through March, 2010. I later learned all three payments were made. He also made two payments in April, equaling \$3,855.68.

19. If there was any deficiency by the start of June, 2010, it was no more than \$600. Had we, his family, been accurately informed in June, 2010 that he had missed a portion of a payment – or accurately told the amount due – we would have paid those amounts immediately. Instead, EMC told us the wrong payment amount, accepted payments in June and July, 2010, and then referred the loan to foreclosure July 29, 2010 – only five days after accepting payment.

20. By letter dated September 7, 2010, EMC wrote a letter acknowledging that my sister and I had been appointed as Co Successor Trustees. But it continued to deny us access to information about the account.

21. My sister Varsha again requested an assumption package on or about September 12, 2010.

22. On September 21, 2010, my sister, Varsha Sharma, wrote EMC's executive offices, explaining the situation, asking that EMC halt foreclosure proceedings, waive foreclosure -related fees incurred as a result of EMC's failure to communicate, and allow the family to assume the loan.

23. On or about September 29, 2010, a representative named Richard told my sister Varsha that a trial modification had been offered to us in June and July, 2010. We never received such an offer.

24. Throughout this period, even though we had faxed my father's death certificate to EMC multiple times, EMC continued to call and ask for my deceased father.

25. We retained an attorney to help us in our efforts to communicate with EMC, and to assume and reinstate the loan. That attorney wrote the Trustee, Cal-Western Reconveyance, several times in November, 2010, indicating we wanted to reinstate or modify and assume the loan. Cal-Western indicated we would have to contact the servicer EMC. By letter dated December 15, 2010, we wrote again asking to reinstate or assume the loan.

26. EMC instructed our attorney, by letter dated February 23, 2011, that we should apply for a loan modification prior to assumption and submit it to Chase, which was taking over servicing from EMC as of April 1, 2011. The letter instructed us to "include a copy of the POA (Power of Attorney) giving the deceased daughters [sic] authorization to the loan account, and a copy of the death certificate for Mr. Sharma."

27. Barely two weeks before, however, Chase had written to my deceased father, Gaja Sharma, noting that Chase had received a Power of Attorney and asking him to call to “finalize the request.”

28. EMC had given us a month to submit the modification application, to March 25, 2011. We submitted an application by the deadline, but received a letter dated April 6, 2011, stating our application was denied because we had not returned documents in time. When our attorney pointed out that an application had been submitted, representative Rachel Scampo required us to fill out another, nearly identical form on Chase letterhead.

29. EMC also refused our payments. One payment was returned in February, 2011 because “certified funds are required.” We sent certified funds on March 11, 2011, only to have the check returned in April, 2011 for the reason “return default decision.”

30. On March 15, 2011, EMC sent a modification solicitation packet to “Gaja N. Sharma.” We applied for a modification, submitting all the documents requested. We received additional solicitations from the “Chase/EMC Fulfillment Center” dated May 4, 2011

31. Even though the servicer was supposedly considering our loan modification application, it continued to schedule foreclosure sales. The sale was originally set for November, 2010, and postponed several times.

32. On July 18, 2011, EMC denied our request for a modification – which EMC had insisted we apply for – on the ground that “EMC is unable to review this account for a loan modification until this account is no longer delinquent has gone through the assumption process.”

33. We were only sent an assumption package on June 6, 2011. We only got a reinstatement quote in July, 2011. The quote included thousands of dollars of foreclosure-related

fees which could have been completely avoided had we been permitted to make payments and become current, <sup>now we</sup> had incurred legal fees in an effort to save our home.

34. Throughout the fall of 2011, my sister and I again tried to step into our father's shoes, as we should have been able to under the Garn Act. Again, we were told that we had to be executors on the loan – even though, under California law, because the property was part of the trust estate, we were not required to go through probate.

35. Even my attorney was unable to speak to anyone about the loan,

36. We filed suit in Los Angeles Superior Court on August 18, 2011.

37. The bank only agreed to postpone foreclosure after we actually filed the lawsuit. We named the trustee of the securitized trust that owned the loan, Wells Fargo, as a defendant, along with the foreclosure trustee Cal Reconveyance. Throughout the litigation, Wells Fargo's attorneys communicated with us on behalf of Chase, which had taken over servicing from EMC.

38. Since that time, Chase, through the defendant investor Wells Fargo's attorneys, requested that we submit updated modification and assumption packages *six times*. Each time, I have submitted updated documents. The most recent time I submitted documents was in January of 2013. As of January, 2013, the investor Wells Fargo's attorneys represented that "Chase has been actively reviewing [us] for such modification," which was taking a long time due in part to "the challenges present when reviewing non-borrowers for a loan modification and assumption at the same time." In May, 2013, in a court hearing, Wells Fargo's attorneys stated that our modification application had been denied by Chase. We never received written notification of the denial or the reasons for the denial.

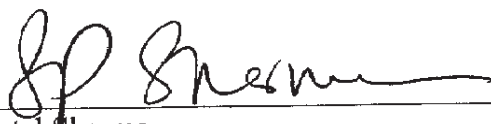
39. At this point, our lawsuit about the property has been voluntarily dismissed. At some time in 2013, the Notice of Default on the loan was rescinded. I do not know why it was rescinded.

40. By letter dated December 30, 2013, Chase sent my deceased father another letter, sending Chase's contact information and stating that we can send a Qualified Written Request to dispute any servicing errors. We submitted the request in early February. We have received no substantive response to date.

41. We have suffered damage as a result of EMC, and later Chase's, refusal to allow us to bring the loan current. Among other things, we have been charged extra interest and fees during a time when we could have become current and avoided foreclosure-related charges. We have spent an enormous amount of time trying to resolve the problem, which we could have been avoided had EMC or Chase simply been straightforward with us. We incurred legal fees to file suit, and after years of litigation that drained our resources, we were forced to dismiss the suit and now face an awards of costs against us. Moreover, because the bank withheld insurance checks for storm damage from us, we were unable to timely repair storm damage and lost a tenant as a result. We have of course also experienced immense emotional distress.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 17 th day of February, 2014, in El Sobrante, CA.

By

  
\_\_\_\_\_  
Sheetal Sharma